

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

Employee

UD136/2008

against

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. L. Ó Catháin

Members: Mr. M. Forde
Mr. D. McEvoy

heard this claim at Cork on 2nd September 2008

Representation:

Claimant: In person

Respondent: Pdraig J. O'Connell, Solicitors, Glebe Lane, Killarney, Co. Kerry

The determination of the Tribunal was as follows:

Respondent's case:

There is no dismissal in this case, the claimant asked for his P45 and left of his own accord.

A company Director (JO'S) gave evidence that the claimant was employed as a general labourer at various sites. He said the claimant was never fired, that he asked for his P45. He said that he did not have an argument with a union official about this issue. He tried to ring the claimant but someone else answered. He issued the P45 when the claimant asked for it.

Claimant's case:

The claimant gave evidence that there was an argument over the phone between a union official and JO'S, and after this he and his colleagues were sacked. His colleague met JO'S who told him after the meeting that he (the claimant) was sacked, and not to contact JO'S. He did not receive a letter

of dismissal, only his P45, which he did not ask for. When asked why he didn't contact his employer, and how his colleague could sack him, the claimant said that all communication with the company and his workmates had been through this colleague, and that there was no need to contact JO'S. He didn't recall when he got his P45, but thought it was about a month later. He said that JO'S never rang him. He admitted that his employer never directly fired him, and that he didn't try to contact him in order to check if he had actually been fired. Initially, he couldn't explain why his claim with the Rights Commissioner was for payment of wages and not unfair dismissal, but said later that he didn't think it was possible to make a claim for unfair dismissal at the time.

Determination:

Based on the evidence adduced, the Tribunal finds that the claimant was not dismissed.

Therefore his claim under the Unfair Dismissals Acts, 1977 to 2001, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

