

**EMPLOYMENT APPEALS TRIBUNAL**

**CLAIM OF:**

Employee

**CASE NO.**

MN836/2007

Against

Employer

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J. O'Connor

Members: Mr T. Gill  
Mr. T. Kennelly

heard this claim at Limerick on 24th September 2008

Representation:

\_\_\_\_\_

Claimants(s) :

No representation listed

Respondent(s) :

No representation listed

The decision of the Tribunal was as follows:-

**Claimants Case**

The claimant who was employed as a truck driver gave evidence that he arrived home on Friday 8<sup>th</sup> June 2007 after a trip to Germany. The Respondent asked him to do a run on Saturday but he could not because of family commitments. He was then asked to do a delivery to Dublin for early Monday morning. He had an accident at home at the weekend and when he went to leave the house on Monday his hand started to bleed again.

He tried to contact his employers but to no avail and eventually got through to the contractor that he was carrying the load for. He left his house on the Monday morning at 8.45 and was back by 9.20am. When he returned his truck was gone.

The next day he spoke to his employer who told him to return his diesel card and to collect his

belongings. He asked the employer should he start looking for another job.

**Respondents Case.**

A company director gave evidence on behalf of the respondent. The claimant commenced employment with them in October 2006 and he had got on well. In November the claimant did not turn in to carry a load for one of their contracts, the employer asked this contractor to give the claimant another chance.

The respondent asked the claimant to do a trip to Germany but he could not do this. Alternatively they arranged with him to do a delivery that had to be in Dublin on the Monday morning 11<sup>th</sup> June 2007 at 7.30am. This delivery was on behalf of the contractor that the claimant had previously let down in November. The claimant promised the employer that he would deliver the load on time.

They took it that he had gone with this load, but then they were contacted by the contractor at 8.15am asking where his delivery was. They tried to contact the claimant on his work mobile but were unable to. She and her husband drove to the claimants house at 10.15 am on the Monday morning and the truck was there. Her husband delivered the load to Dublin. The first contact they had with the claimant was on the Tuesday. Her husband spoke with the claimant. The claimant suggested that he would have to look for another job.

She maintained that they did not sack the claimant and had tried to contact the claimant through a relative to offer him further work but was unsuccessful.

**Determination**

Based on the evidence adduced the Tribunal does not believe the claimant is entitled to minimum notice in the circumstances that the employment terminated. The evidence was that when the claimant went to the employer on the Tuesday morning he accepted that he would have to look for another job.

Therefore his claim under the Minimum Notice and Terms of Employment Acts 1973 – 2001 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

