

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
Employee

CASE NO.  
UD6/2008  
MN4/2008

against

Employer

under

### MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001 UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J. Fahy

Members: Mr T. Gill  
Ms H. Henry

heard this claim at Galway on 20th October 2008

Representation:  
\_\_\_\_\_

Claimant(s) :

Mr. Donal Geraghty, Geraghty & Company, Solicitors, 1 Rosemary Avenue, Eyre Square, Galway

Respondent(s) :

No appearance or representation.

The determination of the Tribunal was as follows

The respondent failed to appear before the sitting division of the Tribunal and there was no representation or appearance on behalf of the respondent.

#### **Claimant's case**

The claimant gave direct evidence that he commenced working for the respondent company in December 2005. His initial place of employment was in Carraroe and within a short period of time he moved to a premises in Bearna. His duties were washing and valeting cars and he was paid €310.00 per week. There was a total of four employees plus a supervisor working for the company.

The supervisor left the company in early 2006 and this resulted in an extension of the claimant's duties. His duties were extended to include tyre duties, the collection of vehicles for washing and valeting and the collection of vehicles at breakdowns. These duties were in addition to his normal duties and he received a pay increase bringing his weekly earnings to €340.00.

On the 6<sup>th</sup> July 2007 the claimant was repairing a tyre for a customer. When he was paid by the customer he went into the office and recorded the payment in the cash book as this was normal procedure. When he had done so his employer (JL) asked him if he had initialled and recorded the time of payment on the cash book. The claimant replied that he had not as he had never done so before. His employer then verbally abused him and threatened him with a brush. He was told by his employer to leave the premises but refused to do so until he was paid his wages. His employer then called the Gardai and they spoke to himself and his employer. His employer then produced a letter requesting that it be signed by the claimant stating that his employment had terminated. The claimant refused to sign the letter.

Approximately ten days later the claimant sought his P45 from his employer. At this stage the claimant signed the letter terminating his employment under protest as he had to obtain his P45. The claimant gave evidence that prior to the incident on the 6<sup>th</sup> July 2007 he had never received any warnings about his work performance. Since his dismissal he has sought employment with numerous local employers, has registered with FAS and has completed a safety pass course to enable him work on construction sites. He has been unable to secure any employment to date.

In reply to questions the claimant confirmed that he never received any documentation relating to disciplinary procedures nor did he receive any terms and conditions of employment from the respondent.

### **Determination**

The Tribunal having carefully considered the uncontested evidence of the claimant is satisfied that the he was unfairly dismissed and awards the sum of €12,000.00 under the Unfair Dismissal Acts, 1977 to 2001. The Tribunal further awards the claimant the sum of €340.00 being the equivalent of one week's pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

