

EMPLOYMENT APPEALS TRIBUNAL

Claim of:
Employee

Case No.
UD320/2008

against

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. N. O'Carroll-Kelly B.L.

Members: Mr. M. Murphy
Ms. M. Maher

heard this claim at Dublin on 12th June 2008

Representation:

Claimant: Ms Bernadette Thornton, SIPTU, Liberty Hall, Dublin 1

Respondent: Ms. Alice Crowley, Ronan Daly Jermyn, Solicitors, 12 South Mall, Cork

The determination of the Tribunal was as follows:

Preliminary Issue:

At the outset of the hearing the Tribunal heard that the claimant's form was lodged outside the stipulated six-month time limit as set out under the above Acts.

It was the respondent's case that the claimant's P-45 was issued to him on the 11 July 2007. The claimant lodged a claim to the Rights Commissioners service on the 17 January 2008. The respondent objected to a Rights Commissioner hearing the claim and the claim was subsequently lodged with the Tribunal on the 1 April 2008.

It was the claimant's case that he had taken a period of time off work to take care for an elderly relative abroad. He did not resign from his position but left Ireland for a period of time on the basis that his job remained there for him when he returned. The claimant's wife contacted him by telephone in July 2007 and told him he had received a P-45 from the company. However, the claimant did not see the P-45 until he returned to Ireland in September 2007.

He returned to Ireland on the 12 September 2007 and believed he would be re-engaged by the respondent. He attended the respondent's premises on the 14 September 2007 and the manager told

the claimant he would contact him if any work was available.

The claimant contacted a SIPTU representative and a claim was lodged to the Rights Commissioners on the 17 January 2008.

Representation for the company stated that the respondent disputed the above as the claimant had informed the company in or around May 2007 that he would be leaving their employment to take care of his elderly relative. A copy of the claimant's P-45 was provided to the Tribunal. The P-45 stated the date of leaving as the 11 July 2007. The P-45 was posted to the claimant's home address in Ireland. The 29 June 2007 was the last day the claimant worked. He was paid a back week and any holiday pay owing. The claimant was a shop steward. When the claimant returned to Ireland he attended the respondent's premises towards the end of September 2007 and sought a reference from the company.

Determination on Preliminary Issue:

The Tribunal having considered the written and verbal submissions of both parties is satisfied that the claimant's P-45 was sent to him in July 2007 and that he was aware of the P-45 within days of its issue. The Tribunal is further satisfied that the claimant knew what a P-45 was because of his role as a shop steward. The Tribunal does not find that the reasons given constitute "exceptional circumstances" in order to extend the stipulated time limit from six months to twelve months. Therefore, the Tribunal dismisses the claim for want of jurisdiction.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)