

## EMPLOYMENT APPEALS TRIBUNAL

**CLAIM(S) OF:**

Employee

**CASE NO.**

WT148/2008

MN278/2008

against

Employer

under

### **MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001 ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. P. O'Leary B L

Members: Mr. M. Flood  
Mr P. McAleer

heard this claim at Monaghan on 5th November 2008

#### **Representation:**

Claimants(s) : In person

Respondent(s) : In person

The decision of the Tribunal was as follows:-

#### **Determination:**

The claimant told his employer that he was going on annual leave for two weeks. The claimant was refused his annual leave. His statutory entitlement was one week only. The time for taking annual leave is at the discretion of the employer and because the employee had previously had two weeks leave the employer did not concede the time off for the employee. The employer decided to dismiss the claimant and offered the claimant the opportunity to work his notice. The claimant was unable to accept the offer as he intended leaving the country that week.

Under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 an employee is entitled to be given the notice or payment in lieu thereof. The claimant was unable to avail of the notice in the circumstances of this case but the employer had fulfilled the statutory requirement of giving the notice and therefore was not liable to pay the claimant in lieu thereof. The claim fails.

The Tribunal awards the sum of € 700.00, this being the sum for five days annual leave due under

the Organisation of Working Time Act, 1997.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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