EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:	CASE NO.
4 Employees	UD256/2007
	UD257/2007
	UD258/2007
	UD259/2007

against

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Sheedy

Members: Mr. J.J. Killian
Mr. J. McDonnell

heard these claims in Waterford on 17 January 2008

Representation:

Claimants: Ms. Marguerite Bolger B.L. instructed by Mr. Justin Cody, James Cody & Sons, Solicitors, Centaur Street, Carlow

Respondent: Mr. John Goff, Nolan Farrell & Goff, Solicitors, Newtown, Waterford

This case was heard simultaneously with UD260/2007-UD262/2007.

The determination of the Tribunal was as follows:

Preliminary Point:

A preliminary issue to be determined by the Tribunal was whether the Tribunal had jurisdiction to deal with the claims under the Unfair Dismissals Acts, 1977 to 2001.

It was submitted by the respondent's solicitor that the claimants had been dismissed on the 15 March 2006. The claimants subsequently lodged claims with the Rights Commissioners Service under the above Acts on the 22 August 2006. Their employer objected to a hearing by a Rights Commissioners in September 2006. The claimants delayed in lodging their T1A forms to the Tribunal and were therefore outside of the stipulated six-month time limit.

The claimants' counsel submitted that the claimants were dismissed on the 10 March 2006 and minimum notice paid to them. The claimants subsequently lodged claims to the Rights Commissioner service under the above Acts on the 22 August 2006. The respondent objected to the claims being heard by the Rights Commissioners by objection dated 18 September 2006. The claims were then lodged to the Employment Appeals Tribunal and received on the 23 February 2007. Counsel for the claimants referred to Section 8(2) of the Unfair Dismissals Act 1977 in which it states *"A claim for redress under this Act shall be initiated by giving a notice in writing……to a Rights Commissioner or the Tribunal, as the case may be, within 6 months of the date of the relevant dismissal."*

Determination of Preliminary Issue:

The Tribunal noted that notice had been paid. The Rights Commissioner claims were lodged within six months of the last date for which the claimants were paid by the respondent. Therefore, the Tribunal is unanimous in finding, under the Unfair Dismissals Acts, 1977 to 2001, that the claims now before the Tribunal can proceed to hearing of the substantive issue.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:	**CASE NO.**
3 Employees	UD257/2007
	UD258/2007
	UD259/2007

against

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Sheedy

Members: Mr. J. Killian
Mr. J. McDonnell

heard this claim at Waterford on 9th September 2008

Representation:

Claimant(s): Ms. Margurette Bolger B.L. instructed by Mr. Justin Cody, James Cody & Sons, Solicitors, Centaur Street, Carlow

Respondent(s): Mr. John Goff, Nolan Farrell & Goff, Solicitors, Newtown, Waterford

The determination of the Tribunal was as follows:-

Introductory Point

This case originally came before the Employment Appeals Tribunal on 17 January 2008 when the preliminary issue on Tribunal jurisdiction under the Unfair Dismissals Acts, 1977 to 2001 was determined.

Preliminary argument

At the commencement of this hearing and in reply to the Tribunal, it was confirmed that no contracts of employment existed and no written disciplinary procedures were in place with the respondent.

Dismissal was in dispute in respect of the second named claimant only. The respondent's representative claimed that this appellant resigned rather than being dismissed.

The position of the claimants' representative was that the claimant was advised by his trade union to resign as he was going to be dismissed. However, when the claimant went to make a claim for social welfare, he was told that the respondent had advised that he had been dismissed for gross misconduct. Because of this, he was denied his social welfare payments for nine weeks.

The Tribunal directed that it would first hear sworn evidence on this issue so as to determine same.

This appellant (*hereinafter referred to as DN*) commenced employment with the respondent in 1991/1992 as a machine operator. He had never received a contract of employment, disciplinary procedures, verbal or written warnings nor had been given any understanding as to the grounds of how he might loose his job. There had been a good working environment at work.

On 7 March 2006, all employees had been called to the meeting in the canteen and told that there had been something going on and all were to be called individually to a meeting in the office. The shop steward, general manager, union representative and receptionist were present at this meeting but the appellant said that he was not represented there. He was told that he had been caught on camera involved in clocking irregularities on four days. He was given a written record of the four days of clocking irregularities. The irregularities had been caught on CCTV. He had not known that he was being recorded and had not given permission for anyone to video him. At the meeting, he had admitted his offence and was suspended. He did not go to work the next day.

DN went to a meeting on Thursday night at the invitation of his union. At this meeting, he was told that the union were trying to plead his case with the respondent not to sack him. It was the union who told him he was sacked. He was shocked. He was also told that it was proposed that if he resigned, he would receive eight weeks notice pay and a good reference. He could not remember who had told him this. He had resigned so as to get the good reference so as to be able to get another job. He confirmed that he received eight weeks notice pay but he had not received the reference.

When he approached Social Welfare, DN was told that the respondent had advised them that he had been sacked for gross misconduct. Because of this, he had been denied social welfare payments for a period of nine weeks. In his evidence, the appellant said that he was sacked on the Wednesday. He was told of it on the Thursday and advised that it would be better for him to resign. A week later, he had written his resignation letter.

In cross-examination, the appellant agreed that his union had represented him at the meeting on 7 March. He also agreed that when presented with the evidence of the four clocking irregularities (*i.e. 1st day = 7 hours, 2nd day = 2 hours, 3rd day = 2 hours and 4th day = 6 hours*), he had not denied it. He also agreed that same was theft.

At a second meeting on the following day, 8 March, the general manager told him that he was sacked. However, if he resigned, he would receive a reference and notice pay to preserve his employment record. He had tendered his letter of resignation on 14 March. He had not been well represented by his union.

In legal argument, counsel for the appellant said that the appellant was forced to resign on the Thursday/Friday, the 8/9 March. The option to resign was to maintain his employment record but in a letter to Social Welfare, the respondent had written that the appellant had chosen to resign. Three points were made…

- the appellant was dismissed because on 8 and 9 March, he was advised by his union that he

was being dismissed

- the appellant's "voluntary resignation" was not voluntary
- the appellant was dismissed by virtue of Section 1 of the Unfair Dismissals Act, 1977

Section 1(b) of the Act provides…[*The] "date of dismissal" means…where either prior notice of such termination is not given or the notice given does not comply with the provisions of the contract of employment or the Minimum Notice and Terms of Employment Act, 1973, the date on which such a notice would have expired, if it had been given on the date of such termination and had been expressed to expire on the later of the following dates—*

(i) the earliest date that would be in compliance with the provisions of the contract of employment,

ii) the earliest date that would be in compliance with the provisions of the Minimum Notice and Terms of Employment Act, 1973

The appellant was told to resign or leave with a blemish on his employment record. Counsel claimed that the appellant was dismissed before he wrote his resignation letter and his resignation letter was not written voluntarily. Because it had not been a voluntary resignation, it must be considered a dismissal.

The respondent's general manager (*hereinafter referred to as NC*) said that the appellant had been called to a meeting on 7 March with his union officials and shown the clocking irregularities. The appellant had said nothing when shown this record. At a second meeting on 8 March, the appellant was allowed to make a reply to the allegations but did not, thus the decision to dismiss. The respondent had decided to "go for dismissal".

In representation on behalf of the employees, the union had said that the appellant would resign if he received notice. NC decided to accept this offer. The resignation letter was received on 14 March.

In reserving her position to cross-examine this witness, Counsel for the appellant made an application for a determination of the Tribunal on this issue. Counsel referred to the direct evidence of NC where he had said that a "decision to dismiss" and a "decision to go for dismissal" had been made. NC's evidence had established that the respondent had decided on dismissal but the union had requested that the respondent accept resignation.

Replying to Tribunal queries, NC confirmed that approximately forty employees work for the respondent. He admitted that though an active union exists, no procedures are in place, though moves have been made over the years to implement same.

NC said that he had never told the appellant that he was dismissed. He agreed that the appellant never had any disciplinary issues before. The clocking irregularities were widespread but they were not accepted practice by management. Management had not been aware of the irregularities but it was noted that overtime was being claimed without a corresponding increase in output.

NC denied again that he had dismissed the appellant. He had not spoken to the individuals involved, but to their union. The union had been informed that the respondent was going for dismissal. This was the process.

Counsel for the appellant again highlighted to the Tribunal that from the respondent's evidence, he had admitted that he had told the union that the respondent was going for dismissal. By his evidence, the respondent's witness had established dismissal and now the onus was on them to show that such dismissal had been fair. Furthermore, the T2 form (*Notice of Appearance*

) for thisappellant had stated that he was "dismissed for gross misconduct".

In reply, the respondent's representative stated that the respondent had made a decision to dismiss. However, it had been his union who had informed the appellant of the decision and it had been the appellant's choice to offer his resignation. The appellant had tendered his resignation so as to save his reputation.

Having heard all of the evidence and the legal argument adduced in relation to this preliminary issue, the unanimously decision of the Tribunal was that this appellant had been dismissed by the respondent.

Substantive issue: - Respondent's case:

In February 2006, the amount of overtime being claimed as against the lack of consequential increased production caused concern so NC instigated an investigation in to time keeping. From the results of the investigation, the level of absenteeism shocked NC.

In relation to the second named claimant, it was found that over a period of twelve to sixteen days, there were four occasions when he was clocked-in but absent from work. Same was detailed as follows:

Wednesday 8th	clocked-in until 4.00 but left at 20.58
Thursday 9th	clocked-in until 4.00 but left at 2.00
Wednesday 15th	clocked-in until 20.01 but left at 18.00
Friday 24th	clocked-in until 8.00 but left at 2.10

In relation to the first named claimant, his clocking infractions were detailed as follows:

Wednesday 8th	clocked-in until 4.00 but left at 2.02
Thursday 9th	clocked-in until 4.00 but left at 23.53
Friday 17th	clocked-in at 3.58 but not in until 7.34
Saturday 18th	clocked-in from 3.57 until 8.00 but not in
Tuesday 21st	clocked-in at 19.56 but not in until 23.42

In relation to the third named claimant, his clocking absences were:

Wednesday 8th	clocked-in until 4.02 but left at 23.59
Thursday 9th	clocked-in until 4.01 but left at 00.01
Friday 10th	clocked-in until 4.00 but left at 23.58
Tuesday 14th	clocked-in until 20.01 but left at 18.30
Thursday 16th	clocked-in until 20.00 but left at 17.55
Friday 17th	clocked-in until 20.00 but left at 17.52

(*Documentation in relation to these clocking infractions was opened to the Tribunal*).

After establishing the clocking irregularities, NC arranged a meeting with the union committee and the branch officials and showed them the investigators report. The individuals involved were then called to a meeting on 7 March. At this meeting, they made no reply nor offered an explanation for the irregularities. At a meeting the next morning with the individuals and union representatives, they said nothing but they did not contest their wrongdoing. At the meeting on the second morning with the union officials, the union officials had accepted the clocking irregularities and had pleaded for leniency on behalf of the individuals.

NC decided to consider the position and subsequently, at a meeting on the next Monday, NC informed the union officials that he had decided to stick with the decision to dismiss. The union

officials had wondered if there would be any point in talking to the individuals again. After the union officials had talked to the individuals about notice, NC agreed to pay the full notice on Friday 10 March. All of the individuals were paid their notice in full. The dismissal letters were sent on the 15 March.

In cross-examination, NC agreed that at the time of the incident, he had been the general manager. Now he was the managing director of the respondent company. He had responsibility for human resources and though he had no formal qualifications in this field, from his experience, he had a good knowledge of the legal obligations on an employer. The respondent was fully compliant with the legal obligations as an employer at the time of the incident but when challenged that contracts of employment, and disciplinary procedures as set out in section 14 of the Unfair Dismissals Act 1977, had not been in place at the time of the incident, NC accepted that his knowledge of an employer's legal obligations was somewhat limited. However, he rejected that he was not qualified to take on the role of HR and said that with advice, he was qualified to do the job.

NC commenced employment with the respondent in November 2003. He agreed that the appellants had a long employment history with the respondent. He was satisfied that he had carried out a thorough investigation when the clocking irregularities had been discovered. If an employee was clocked in to work overtime, then they were meant to be present in the factory. He had only been told at the meeting with the union officials that the clocking practice had been going on for years. He had not checked on this prior to the investigation.

NC insisted that he had spoken to the previous managing director about the clocking irregularities at the time of the investigation and had been told that he – the previous managing director – had not been aware that they were going on. When put to NC that the unions had told him that the clocking had been part of the culture of the organisation and had been condoned, implicitly or explicitly by management, he replied that the union had told him that the practice had been going on for some time and that was all.

NC agreed that the appellants had unblemished employment records with the respondent. However, as far as he was aware, he had not enquired about this when doing his investigation on the cloaking irregularities. He had dismissed the appellants without checking their previous employment record and he considered that this had been fair.

NC knew that the employees had done enough to evacuate the factory when it had gone on fire in 2001 but nothing else about the incident. When put to him, he accepted that the employees had done a great thing for the factory in coming in, clearing the damage and getting back into production within a few days after the fire despite there being no roof on the building. He confirmed however that he had not known the detail about their involvement.

It was standard practice for the employees to come in at short notice to do overtime when it was required. NC had not taken this contribution into account when he decided to dismiss the claimants.

The levels of production did not change during his time despite the amount of overtime being done. He was not aware if employees left the factory when their production targets were reached nor was he aware if other employees would go for a snooze in the factory when their targets were met.

The investigation into the clocking irregularities was done through CCTV from outside the factory. The claimants had not been made aware of the CCTV. NC was not fully aware that he should have gotten the employees permission to use CCTV under date protection obligations. While confirming

that he was not aware of the respondent's obligations under the Data Protection Act, ultimately NC, on advice from IBEC has responsibility to ensure that the company is compliant with data protection. When put to him that videoing the claimants without advising them beforehand was a breach of their constitutional right to privacy, NC confirmed that they had not been advised. However, NC felt that it was fair and that he had a right to engage in videoing in order to protect the respondent.

The quality standard of ISO had applied before NC had commenced employment and it was not applied now. This change did not affect the quality of the carpets being produced. NC could not remember having heated discussions with anyone over quality and denied that he had ever said to keep producing despite quality.

A variety of people had replaced the claimants in the factory and NC agreed that these people did not have the same length of service as the claimants. There had been discussions and some stand-up rows with employees, regardless of their length of service, on issues of health and safety. NC had the same working relationship with all employees. He agreed that there was some difference between employees with thirty years experience and those with three months experience but did not agree that employees with three months experience were easier to manage.

Dismissal was first raised with the union on Wednesday 7 March. On the next day, the claimants discovered that their jobs were in jeopardy. When put to NC that dismissals had been decided in 30 hours, he said that the decision had been fair because of stealing and that he stood by his decision.

NC had followed the process in his meetings. NC, his HR advisor and IBEC had developed the process, which had not been written down but was verbal. NC confirmed that IBEC had advised him but had not given him anything in writing. The process was…

1. speak with the union
2. speak with the employees
3. suspend
4. seek answers from the employees on the following day
5. conduct an in-house investigation

In this case, the in-house investigation had not amounted to much as the appellants had admitted to the clocking irregularities. The previous employment record of the appellants had been in his mind and he would have considered it but at the end of the day, his decision to dismiss had been based on their stealing from the respondent.

NC understood that notice would not be paid on grounds of gross misconduct. When asked if the claimants were aware that clocking irregularities would result in dismissal, NC replied, "theft was theft". He confirmed that the appellants were never told that this long engaged-in practice would result in dismissal.

NC agreed that in his discussions with the union, they had pleaded that sanctions, except dismissal, such as a return to probation, the issue of a final written warning, suspension, etc., be imposed on the appellants. However, these other sanctions would not have been fair to the remaining employees.

In examination from the Tribunal, NC confirmed that he had joined the respondent as manufacturing manager in November 2003 and was general manager for two years. He was not really aware of any disciplinary issues within the respondent from the period prior to the commencement of his employment.

NC explained that the clocking irregularities were done when someone on another shift clocked a person out despite that person having earlier left the factory. It was a deliberate, thought-out process. NC agreed that he had decided on dismissal without notice. He had told the union that the claimants were dismissed but he had not informed the claimants themselves. The unions had pleaded the case of the claimants, based on the claimants' length of service. They had requested that other sanctions be considered, rather than dismissal. However, it was going to be dismissal because of the severity of what had been going on, the length of time the irregularities had been going on and the amount of money that it had cost the respondent. No other options had been considered.

NC confirmed that he had not taken cognisance or action against those who had facilitated the clocking irregularities, as he could not prove it. He had only dealt with the people who had appeared on the CCTV.

Claimants' cases

In his sworn evidence, the first named claimant (*hereinafter referred to as PK*) commenced employment in 1976 as a machine operator and for the last ten to twelve years, he had been a charge-hand operator. The management structure of the respondent was machine operator, charge-hand, and general manager. If any one had a problem with a machine, they reported to him and if he failed to resolve the problem, it was referred to the general manager.

The respondent had been a good working environment and PK had worked there for thirty years, during which time, his only arguments had been over the quality of the product. The respondent had been under the ISO standard. The previous general manager had been of the opinion that an inferior product should not be manufactured, therefore make nothing rather than rubbish. PK believed that the previous general manager had trusted his judgement.

The working relationship with NC had been very different and the claimant's judgement was not trusted. On one occasion while working on nights, PK felt the poor quality carpets were being produced so he had shut down the machines. NC had started the machines again the next morning so as to get orders filled. The ISO standard went when NC became general manager.

PK never denied that he had been involved in clocking irregularities. If staying back on nights to clean a machine and the job took four hours to complete, he worked through breaks so a to get it done ahead of schedule. If he had not left when the job was done, he would have played cards or gone to sleep on carpets in the warehouse, like other employees. As the practice of going to sleep had being going on for a long time, the previous general manager must have known about it. During the early years, the previous general manager had come into the factory during night shifts. PK did not think that NC had done this. He believed that management must have known about the clocking practices because it could not have been kept secret.

PK had been informed about the investigation during the first meeting. He had not known about the CCTV, nor had he been told that he was being dismissed, at that time. Nothing had been wrong with the work that he had done for the respondent. He felt that the decision to dismiss had been made in thirty hours after his thirty years of service.

PK recounted the incident of the fire. On that occasion, the previous general manager had said that due to the fire damage, no work could be done and to go home but he, with others, had cleaned water and rubbish out the pits under the machines. Their objective had been to get back into production again and had not objected to working. There had been no roof on the factory due to the

fire but the employees had gone back to work while wearing hard hats and coats.

PK also told the Tribunal of the short notice of two and four hours that he would get to come into work to cover shifts and do overtime. NC knew that they were all flexible and PK was aggrieved because this had not been taken into account when deciding to dismiss him. He would have done anything to save his job, even going back to probation.

PK lodged a hand-written appeal dated 18 April 2006 to the managing director (the previous general manager) within which had had written that the appellants would accept unpaid suspension or any other sanction to avoid dismissal. This appeal was rejected by letter dated 28 April 2006. (Copies of both letters were opened to the Tribunal).

PK did not agree that the investigation had been extensive, as the claimants had done a lot of good for the respondent over the years.

Uncontested evidence of loss was presented to the Tribunal. The appellant received twenty letters of rejection before securing alternative employment. In the new job, the hours of work were longer and the pay was less than it had been when working for the respondent.

In cross-examination, PK agreed that while at home, he was paid to be at work and he agreed that theft was against the law. The clocking practice had been going on for years. When he had been in the factory, he had done his work.

Replying to the Tribunal, PK agreed that charge hand was a big responsibility and was second-in-command to the general manager. However, he rejected that he had a responsibility to report the clocking irregularities because he was an ordinary worker. He felt no responsibility to tell the managing director that a wide spread fraud existed and believed that he knew that something was going on. It was a long time accepted practice that when the allocated work was done, a person could go home. He admitted that this did not mean that people were "entitled" to go home.

In his sworn evidence, the third claimant (*hereinafter referred to as SW*) confirmed that he commenced employment as a machine operator in 1978. He had never received written disciplinary procedures, had never had any disciplinary issues, had a good working relationship with the respondent and had regularly worked overtime on short notice.

In relation to clocking, SW was 24 years old when he commenced employment with the respondent. Two months after he had commenced employment, he was told by another charge hand that once he had completed his work, he could go home. He never had a problem with meeting his production targets.

SW did not direct his concerns about quality to the general manager but to the PK. He witnessed heated discussions between NC and PK in relation to quality. He got on well with the managing director, who to his understanding, must have known about the clocking practice because such a thing could not be kept secret for thirty years.

SW felt very aggrieved that the decision to dismiss him was made over a thirty-hour period. He had been willing to accept any other sanction from the respondent and felt hard done by on loosing his job after twenty-eight years of service.

Uncontested evidence of loss was presented to the Tribunal. The appellant applied to a number of

places for work but was not successful. He got alternative employment as a general cleaner on a one-year contract but at less money than he earned when with the respondent. Currently, he is unemployed.

In cross-examination, when put to him that he had defrauded the respondent, SW replied that he had never left work before the task assigned to him had been done. He could have stayed at the factory and gone to sleep, like others. In relation to the rule of clocking out when leaving work, SW said that people make life easy for themselves and that he deserved to leave when the work that was required of him, was done. He did not deny that what he had being doing was fraud but he was paid to do the work assigned to him and the work that had been assigned to him had been done.

The second named claimant – DN – had worked for nearly fifteen years as a machine operator. He had a clean disciplinary record. He had been involved in getting the factory back into operation after the fire. He believed that he had made a substantial contribution to the respondent.

In relation to the clocking practice, DN believed that the respondent knew about it and just turned a blind eye to it happening. He had never left work before the work assigned to him had been done and if he had not left when his work was done, he would have gone into the warehouse and slept.

Uncontested evidence of loss was presented to the Tribunal. The appellant is working under a FÁS scheme but at a reduced rate of pay than what he had received when working for the respondent. Because of the current downturn in the economy, he was not hopeful for his future prospects and felt badly treated by the respondent.

In cross-examination, DN agreed that he had defrauded the respondent because of the practice of clocking irregularities.

Replying to the Tribunal, DN said that management knew of the clocking practice because it was the accepted practice on the factory floor but he could give no substantial reason to indicate that management actually knew that the practice was going on.

Closing statements

In summing up, counsel for the claimants said that they had accepted that their practice of clocking had been wrong and they had been willing to accept sanctions for their wrongdoing. Their evidence was that they had come into a long established practice of once a job was done, they could go home. They believed that management was aware of this long-standing practice. In particular, it was contended that the current managing director - previously the general manager - had been aware of the practice. Despite his presence at the hearing, no evidence had been presented to contradict this belief, or to confirm or deny his knowledge of the practice.

Counsel also highlighted that the investigation by NC was limited. The claimants' long, unblemished employment record or their contribution to the recovery of the factory during the time of the fire, which was beyond the call of duty, had not been taken into account when deciding to dismiss them. When it was put to NC, he admitted that the action of the claimants during the time of the fire was impressive. However, he had only looked at the clocking irregularities during his investigation. The claimants had been willing to accept any sanction imposed on them in order to save their jobs. Everyone is entitled to a second chance and based on the claimants' contribution to the respondent; they had been worthy of this second chance.

Furthermore, the respondent was in blatant breach of their employment obligations under the Data

Protection Act, and in their failure to put in place terms and conditions of employment and grievance and disciplinary procedures.

The respondent's representative highlighted the seriousness of the clocking irregularities and the level of the resulting fraud. Regardless of whether or not management knew about the clocking practice, this did not authorise it. A clocking machine was in place but the claimants had ignored it. The clocking irregularities happened at night or on weekends when management was not present in the factory. All of the claimants believed that what they were doing was all right. Because of their actions, they did not have exemplary employment records. Furthermore, the first claimant – PK – was in a senior position as charge hand operator but had not acted accordingly when in such a position.

Determination

The Tribunal carefully considered the evidence adduced at the hearing. The Tribunal noted that the claimants accepted in their evidence that they had defrauded the respondent on an ongoing basis. It was also noted by the Tribunal that this was a custom and practice that was both known and accepted by the management of the respondent over a long period of time. The respondent did not rebut this in its evidence.

The management of the respondent accepted it in evidence that there were a lack of procedures to deal with the dismissals. Accordingly, the Tribunal finds the dismissals of the three claimants to be unfair and their claims under the Unfair Dismissals Acts, 1977 to 2001 succeeds.

In calculating the financial loss, the Tribunal bases the award on two premises. There was proven consistent fraud on the part of the claimants and that the claimants contributed significantly to their dismissals. The Tribunal particularly noted that the agreed figures on loss between the parties included the figure for loss to the company for periods when the claimants were clocked in and received payments but were not working.

The Tribunal deems the most appropriate remedy to be compensation and awards the claimants the following sums under the Unfair Dismissals Acts, 1977 to 2001:

1. PK (*UD257/2007*), compensation in the amount of €13,554.00
2. DN (*UD258/2007*), compensation in the amount of €24,863.00
3. SW (*UD259/2007*), compensation in the amount of €24,445.00

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)