

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

Employee

RP206/2008  
UD257/2008  
MN238/2008

against

Employer

under

### **MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001 REDUNDANCY PAYMENTS ACTS, 1967 TO 2003 UNFAIR DISMISSALS ACTS, 1977 TO 2001**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J Flanagan BL

Members: Mr R Murphy  
Mr A Butler

heard this claim at Dublin on 20<sup>th</sup> June 2008

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

Claimant(s): Mr Blazei Nowak, 19 Talbot Street, Dublin 1

Respondent(s) Ms Barbara Mebtouche, Triana, 13 Store Street, Dublin 1

The determination of the Tribunal was as follows: -

**The claims under both the Redundancy Payments Acts, 1967 and 2003 and the Minimum Notice and Terms of Employment Acts, 1973 to 2001 were withdrawn.**

### **Determination**

The Tribunal carefully considered the opening statements made by both parties. The respondent admitted that there had been no disciplinary hearing prior to the dismissal. The claimant had not been told that he was on a final warning. The respondent stated that the claimant had received a verbal warning in respect of a prior incident of minor misconduct. It was accepted by both parties

that the claimant had not been invited to attend at a disciplinary hearing prior to the making of a decision to dismiss the claimant and therefore the Tribunal finds that the dismissal was procedurally unfair.

The parties were invited by the Tribunal to indicate their preference as to remedy and both preferred compensation.

The Tribunal then considered the matter of loss. The parties agreed that the claimant had been in receipt of a gross wage of €623.07 per week and that the claimant had ceased to work on 11<sup>th</sup> March 2008. It was accepted by the parties that the claimant had been given two weeks notice but that the claimant had declined to work out the notice period. The Tribunal also finds that but for the fact that he had already been unfairly dismissed the claimant would have been entitled to a payment in respect of statutory redundancy on 15<sup>th</sup> July 2008 when the respondent business ceased trading. The Tribunal has decided to award compensation for loss of earnings for the period 11<sup>th</sup> March 2008 to 15<sup>th</sup> July 2008 (less two weeks as the claimant had refused to work out the two weeks minimum notice period) and a further sum in respect of the redundancy payment forgone. The Tribunal calculates the loss of earnings to be a sum of €9969.12 and the redundancy lump sum foregone to be €3540 and the Tribunal therefore awards compensation of €13,509.12 under the Unfair Dismissals Acts, 1977 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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