

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

Employee

MN952/2008
WT427/2008
UD1026/2008

against

3 Employers

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001 ORGANISATION OF WORKING TIME ACT, 1997 UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr B. Garvey BL

Members: Mr. R. Prole
Ms. A. Moore

heard this claim at Dublin on 16th January 2009

Representation:

Claimant(s): The claimant in person

Respondent(s): No representation by or on behalf of the respondent

The determination of the Tribunal was as follows:-

Claimant's Case

The claimant told the Tribunal that she commenced employment with the respondent on 6 September 2006. She worked as a waitress and undertook supervisory duties and organised a weekly staff roster. She was not given terms and conditions of employment. She was employed for a trial period of approximately three to four months and she was paid a minimum wage. She was paid in cash and she received a payslip. A three percent cut was deducted for breakages and a deduction was also made for a uniform. When she commenced employment she earned €8.30 perhour. Her hourly rate of pay in September 2007 was €9.50. In November 2007 her gross weekly pay was €463.46. She worked six to seven days a week and she worked most Sundays. She returned to South Africa on three occasions in two years and she did not receive any holiday pay. Her employer told her that due to debts that occurred in the respondent he decided to close the company and on 6 September 2008 she received notice that her employment had terminated. She received a P45 dated 31 August 2008. She told her employer that she

was going to a RightsCommissioner.

The business continued and many of her colleagues are still employed. After her employment terminated she was unemployed for some time. She then moved back to Drogheda and remained with friends, as she could not afford to pay rent. She found alternative employment on 5 December 2008 and she has a new work permit.

The claimant stated that some days before the Tribunal hearing she was contacted by a solicitor representing the respondent who asked her what money she was looking for. She was made a cash offer which she declined. The respondent then contacted her current employer and made disparaging remarks about the claimant and her new employer informed her of this.

Determination

On the uncontested evidence of the claimant the Tribunal find that claimant was unfairly dismissed and award her compensation in the amount of €7,500 under the Unfair Dismissals Acts, 1977 to 2001. The Tribunal heard evidence that the claimant had never received holiday pay during her employment with the respondent so she is therefore entitled to compensation for thirteen public holidays and thirty days annual leave which amounts to €3,985.75 under the Organisation of Working Time Act, 1997. The claimant is entitled to one week's minimum notice in the amount of €463.46 under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

