

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
Employee

CASE NO.
MN693/2008 WT314/2008

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: Ms. O. Brennan BL

Members: Mr. D. Winston
Ms. M. Mulcahy

heard this claim in Dublin on 14 November 2008

Representation:

Claimants(s) :

Mr. Francis McGagh BL instructed by Liam Moran & Company, Solicitors,
11 Malahide Road, Swords, Co. Dublin

Respondent(s) :

XXXX

The decision of the Tribunal was as follows:-

In the claim to the Tribunal awards were sought under the Minimum Notice and Terms of Employment Act, 1973 to 2001, and under the Organisation of Working Time Act, 1997. It was stated that the claimant's employment with the respondent began on 30 October 2006 and ended on 21 January 2008. No date was specified as a date on which dismissal notice had been received. It was submitted that the claimant's gross weekly pay had been €800.00 and that he had not received a written contract of employment or particulars under Section 9 of the Minimum Notice and Terms of Employment Act, 1973.

At the beginning of the 14 November 2008 hearing the claimant's representative said, after the matter had not been resolved by negotiation, that the case would have to be heard and that the claimant was seeking compensation under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

Giving sworn testimony, the respondent's representative who was also the respondent's managing director (hereafter referred to as MD) said that the claimant's employment with the respondent had begun on 28 September 2006 and had ended on 21 January 2008.

MD stated that, on 14 December 2007, he told the claimant that work would be quiet after Xmas. After Xmas the claimant said that he had no work got. MD had told him verbally on 14 December 2007 that things had gone quiet and that MD had nothing coming up. MD told the Tribunal that he had said this to the claimant but that "it was more his girlfriend". MD told to the Tribunal that he spoke to both of them at the same time. The claimant would go home and talk to her and she would ring MD that night. MD told the claimant on 14 December that there was no work in the New Year.

When it was put to MD that the claimant was looking for one week's notice, MD replied: "He worked his two weeks' notice."

Under cross-examination, MD said that he spoke to the claimant on 14 December and gave him a letter on 3 January 2008. A copy of the said letter was furnished to the Tribunal.

The letter was addressed to "To whom it may concern". It stated that the claimant had been working for the respondent since 29 September 2006 and that, due to shortage of work, the respondent had no option but to give the claimant two weeks' notice from 3 January 2008.

It was put to MD that the claimant would say that he had never previously got this letter. MD replied: "I told him there'd be no work in 2008. I laid him off on 3 January 2008. I gave him notice on 3 January 2008 that he was going in two weeks' time."

Determination:

The Tribunal determined, without needing to hear the claimant, that the respondent must pay the claimant the sum of €800.00 (this amount being equivalent to one week's gross pay) under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

The claim lodged under the Organisation of Working Time Act, 1997, was not proceeded with and falls for want of prosecution.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

