

## EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

Employee

UD81/2008

MN65/2008

WT43/2008

against

Employer

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2001 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 J Flanagan BL

Members: Ms J Winters  
Ms C Warnock

heard this appeal at Dundalk on 26<sup>th</sup> June 2008

#### **Representation:**

Claimant:

Ms Marie Hayes, Citizens Information Centre,  
4 Adelphi Court, Long Walk, Dundalk, Co. Louth

Respondent:

XXXX

The determination of the Tribunal was as follows:

The respondent building company had employed the claimant since October 2006 as a builder's labourer. The employment was uneventful until November 2007 when the project on which the claimant was working neared completion. It was the respondent's case that on 30<sup>th</sup> November 2007 the claimant was given a letter from the director with his payslip stating that work on the project was finishing on 7<sup>th</sup> December 2007 and that no other work was available. The respondent would be in touch if more work became available. It was the claimant's case that he did not receive this letter.

On 10<sup>th</sup> December 2007 the claimant telephoned the director to ask where he was to be working next and the director was equivocal about the situation. On 11<sup>th</sup> December the director's wife gave the claimant an envelope containing the outstanding holiday pay and his P45. The respondent's position is that by the letter of 30<sup>th</sup> November 2007 the claimant was given notice of

the termination of his employment. The claimant has not been replaced since his employment was terminated.

**Determination:**

The Tribunal considers it unnecessary to decide whether or not the claimant received the letter of 30<sup>th</sup> November 2007, as this letter does not constitute notice of termination. The letter of 30<sup>th</sup> November 2007 and all other communications received by the claimant prior to 11<sup>th</sup> December 2007 lacked sufficient particularity to constitute a notice of dismissal. Advising an employee that the employer has no further work available after the end of the current project may constitute a notice of lay-off and an employee on lay-off remains an employee.

The Tribunal finds that a redundancy situation existed in the respondent firm. The Tribunal also finds that the employment of the claimant was terminated by reason of redundancy and that termination was effected on 11<sup>th</sup> December 2007 when the director's wife gave the claimant an envelope containing his P45 and outstanding holiday pay. The Tribunal also finds that the selection of the claimant for redundancy was not unfair.

It follows that the claim under the Unfair Dismissals Acts, 1977 to 2001 must fail.

The Tribunal finds that the respondent terminated the employment of the claimant on 11<sup>th</sup> December 2007 without notice. The Tribunal awards €560-00, being one week's pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

The claimant withdrew his claim under the Organisation Of Working Time Act, 1997 when he was satisfied on the evidence that he had received his correct holiday pay.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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