

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM OF:

CASE NO.

Employee

MN742/2008

against

2 employers

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms P. McGrath

Members: Mr E. Handley  
Mr G. Whyte

heard this claim at Dublin on 3rd December 2008

Representation:

Claimant: In person

Respondents: No appearance or representation

Note: The Dates on the T1A were as follows:

Date of commencement: 5 August 2007

Date of termination: 18 April 2008

The decision of the Tribunal was as follows:

The claimant said that he commenced work with the respondent on 5 August 2007. The Director (DK) told him that he was not entitled to holiday pay. He told her he had to leave the country because his father was ill. He got a friend to replace him while he was away, but he (the friend) was let go before he came back. He came back on 19 June 2008 after 8 weeks away, but he wasn't given the job, so he was unemployed for 2 weeks. He was then told by the Director's sister that they would put him in another branch.

He said that he had to pay for a new set of keys which he had lost. He filed a claim in the labour court for Unfair Dismissal and Minimum Notice when he wasn't put on the roster. The company

said he was re-employed, but he continued to work and was not sacked. He is working with another company now. Although the P45 says he only worked for 4 weeks, he actually worked for 9 months.

**Determination:**

There was no representation on behalf of the respondent.

The Tribunal has carefully considered the evidence adduced and is satisfied that the eight week “break” from employment in the spring / summer of 2008 has to have been a break in service as the claimant departed without a formal arrangement to return to work having been made.

It is self evident that the four or five weeks of work which was taken up from the 5<sup>th</sup> of July 2008 does not give sufficient service to qualify for minimum notice under the legislation where the entitlements only start after 13 weeks of continuous service.

Therefore the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

