

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

Employee

- *claimant*

CASE NO.

UD1042/2008
MN970/2008

against

Employer

- *respondent*

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001 UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Mr J. Goulding
Mr O. Nulty

heard this claim at Monaghan on 11th March 2009

Representation:

Claimant: Wilkie And Flanagan, Solicitors, Main Street, Castleblayney, County Monaghan

Respondent: Mr. Breffini O'Neill, Construction Industry Federation, Construction House, Canal Road, Dublin 6

The determination of the Tribunal was as follows:-

Determination

The claim under the Unfair Dismissals Acts, 1977 to 2001 was one of constructive dismissal, accordingly it fell to the claimant to make his case.

When the claimant had a disagreement with his foreman, he rang the office to inform them and was told to sort it out between themselves. He returned to the site finished his work and went home. On the Friday the office rang him and told him to report to a different site on the Monday. He did not report to this new site on the Monday and rang the office to say he would not be returning back to work.

On his application to the Tribunal one of the remedies sought is reinstatement under a different foreman. By moving site through his own admittance he probably would have been reporting to a different foreman. We fail to understand the logic of his position.

The Tribunal finds that this was not a constructive dismissal, and the claim under the Unfair Dismissals Acts, fails.

As the claimant was not dismissed the claim under the Minimum Notice and Terms of Employment Acts, also fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

