

EMPLOYMENT APPEALS TRIBUNAL

Claims Of:
Employee

-

Case No.
UD655/2008
RP557/2008
MN594/2008
WT274/2008

against
Employer - Respondent

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2001
REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
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. K. T. O'Mahony B.L.

Members: Mr. M. Forde
Dr. A. Clune

heard this claim at Limerick on 4th February 2009

Representation:

Claimant: Ms. Mary McElligott, SIPTU, 4 Church Street, Limerick

Respondent: No appearance or representation.

The determination of the Tribunal was as follows:

The Tribunal is satisfied that the respondent was duly notified of the hearing herein.

The claimant became an employee of the respondent as a result of a transfer of the business on two occasions. The claimant did not receive a P45 on the occasions of the transfers and there were no breaks in his service.

The claimant commenced employment with the respondent in May 2004. On the 30th April 2008 his employer provided him with a letter stating that his employment was being terminated on the 2nd May 2008. The claimant was told verbally that his employment was to be terminated, as he was a high earner.

Determination:

The claimant became an employee of the respondent as a result of two transfers of undertakings.

On the 30th April 2008 the claimant received a letter dated the 29th April 2008 informing him that his employment was being terminated on the 2nd May 2008. He was verbally told that he was being let go because he was one of the highest earners.

The respondent having failed to attend and discharge the onus of proof under the Acts, the Tribunal applies Section 6(1) of the Unfair Dismissal Acts and deems the dismissal of the claimant to be unfair. Accordingly. The claim under the Unfair Dismissals Acts, 1977 to 2001 succeeds and the Tribunal awards the claimant €23,254.40 under the Acts.

Having deemed the dismissal unfair under the Unfair Dismissals Acts, 1977 to 2001, and having made an award in that regard the appeal under the Redundancy Payments Acts, 1967 to 2003, is dismissed.

The Tribunal awards the claimant €626.08 (being the equivalent of seven days' gross pay) as his remaining notice entitlement under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

It was the claimant's evidence that the claim under the Organisation of Working Time Act, 1997 had been resolved between the parties. Accordingly, the claim under that Act is also dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)