

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

Employee

- *claimant*

CASE NO.

UD1513/2008

Against

Employer

- *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. O'Connell B.L.

Members: Mr. J. Reid
Ms. E. Brezina

heard this claim at Dublin on 6th May 2009

Representation:

Claimant: Daniel Coyle B.L. instructed by Oliver Shanley & Co., Solicitors, 62/63
Academy Street, Navan, Co. Meath

Respondent: XXXX

Determination

The Tribunal notes that the claimant in this case was dismissed on the 4th of December 2007 following an unsuccessful internal appeal. A period in excess of four months passed during which the claimant, despite after having the benefit of legal and trade union advice, failed to apply for relief to the Employment Appeals Tribunal. Instead the claimant sought to avail of the ad misericordiam appeal process internal to the respondent. On behalf of the claimant, it was alleged that the respondent engaged in delay and therefore frustrated this appeal process. It was open to the claimant throughout this period to lodge an appeal with the Employment Appeals Tribunal. Before and after the passing of the six months deadline which fell on the 4th of June 2008, the Tribunal believes that the claimant failed to act with due expedition. The exceptional circumstances cited on behalf of the claimant did not preclude the lodging of a claim. The circumstances surrounding the delay in applying for relief under section 7 of the Unfair Dismissal Act 1993 cannot be deemed to be exceptional. Accordingly the Tribunal declines jurisdiction in this case.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)