

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

Employee

- *claimant*

CASE NO.

UD146/2009

MN148/2009

Against

Employer

- *respondent*

Under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. Clancy

Members: Mr. B. O'Carroll
Dr. A. Clune

heard this claim at Limerick on 31st July 2009

Representation:

Claimant: Ms Nicola Kenny, Michael D. Murray & Co, Solicitors, 86 O'Connell Street,
Limerick

Respondent: Sullivan Waters & Co., Solicitors, 19 West End, Mallow, Co. Cork

The determination of the Tribunal was as follows: -

Respondents Case

The respondent disputes the date of termination given by the claimant, according to their records the last day the claimant worked was the 25th of July 2008. The respondent's are steel frame building and roof manufacturers and erectors. Over the last 18 months the company's turnover has halved due to the downturn in the building trade. As a consequence the number of people employed has decreased from 125 staff during the peak period to 60 this month with further redundancies to be made.

The claimant worked as part of a four-man crew that operated independently on various sites. The foreman had numerous qualifications including roofing, banksman, welding and 12 years service. The second member of the crew had machine operating qualifications and 11 years service. The third member of the crew was a crane driver with 4 years service. The claimant had no construction

qualifications and 16 months service. The claimant was employed as a General Operative to assist the team in any way the foreman saw fit, he was not qualified or capable of steel erecting. The claimant was selected for redundancy, as he did not possess the skills the other members of the crew had and he had the least service. The claimant was not replaced. The other general operatives employed by the respondent with less service than the claimant all had specific qualifications.

The job the claimant was working on was 90% complete when the respondent approached him on the 21st of July 2008. The respondent informed him that there was no more work for him after the holidays, which were the week before and after the August bank holiday weekend. On Friday the 25th of July 2008 the claimant was paid two weeks holidays and one weeks notice, no further wages were paid to the claimant. The P45 states a later date due to a fault with the respondent's accountants.

Claimants Case

On the 23rd of July 2008 the claimant was approached by the respondent and advised it would be a week or two after the holidays before he would have any work for him again. The claimant did the same work as the other members of the crew except for the machine driving. The claimant rang the respondent two weeks after the holidays and was told there was no work yet but to call next week. This happened for a few weeks until the claimant got frustrated and requested his P45. Out of the four members of the claimants crew he had the least skills and service.

Determination

Having carefully listened to the evidence adduced by both parties the Tribunal is satisfied that the claimant was dismissed by reason redundancy. The redundancy was legitimate and the selection was fair, accordingly the claim under the Unfair Dismissals Acts, 1977 To 2007 fails. The Tribunal are satisfied that the claimant received his minimum notice entitlement, therefore the claim under the Minimum Notice and Terms Of Employment Acts, 1973 To 2005 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)