

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE

CASE NO.
UD1556/2008
MN1499/2008

against

EMPLOYER

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: Mr J Fahy

Members: Mr T Gill
Mr P Clarke

heard this claim at Loughrea on 25th June 2009

Representation:

Claimant(s): Mr Davitt Geraghty
Geraghty & Company
Solicitors,
1 Rosemary Avenue
Eyre Square
Galway

Respondent(s): In person

The determination of the Tribunal was as follows:

The claim for minimum notice under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, was withdrawn at the outset of the hearing.

Respondent's Case:

The General Manager (GM) of the respondent company contended that the claimant did not have the requisite service to make a claim under the Unfair Dismissal Acts. GM contended that the claimant's employment commenced on 18th July 2007 and terminated on 17th June 2008. However the P45 issued by the company states that the claimant's employment was terminated on 29th August 2008. GM offered no evidence indicating a different date of termination to that stated on the P45 and did not wish to give oral evidence.

Claimant's Case:

The claimant applied for the role of hotel receptionist, and, after the interview GM offered her the role of front office manager. She was to spend her first week training at reception with a colleague commencing 16th July 2007. However, she was asked to take the Monday and Tuesday as her days off to coincide with her colleague.

The claimant was admitted to hospital in September 2007 and again in October 2007 when she was on sick leave for five weeks. While on sick leave the claimant heard that the colleague who had trained her had been offered the claimant's position. When the claimant was out of hospital she called to the hotel and met GM. GM offered the claimant a sales and marketing role including reception work.

The claimant commenced the new role when she returned from sick leave in November 2007. In December she asked for a contract of employment. The claimant made amendments to the contract and returned it to GM, but it was never returned to her.

In 2008, GM asked the claimant to take her holidays in May. The claimant took leave in early May and from 6th June to 16th June 2008. When the claimant presented for work on 17th June 2008 GM told her that the role of sales and marketing was gone, and that he would be carrying out the role. He told the claimant that she no longer had a job.

The claimant was shocked, as she believed that the hotel was doing well. No issues were ever raised concerning the claimant's performance during her employment. She asked about the possibility of a job at reception, as the hotel had advertised for the role receptionist on 8th May 2008, while the claimant was on leave, but GM told her that there was no job for her at the hotel. Two employees were hired for the reception area after the claimant's dismissal, and one of those became an assistant manager.

When the claimant came to work the next day to commence working her month's notice period GM asked her what she was doing there. GM told the claimant that he would pay her notice and told her to leave the hotel. The claimant received her P45 in September 2008.

Determination

The respondent offered no evidence (and came very poorly prepared) to the Tribunal, which would show that this was a redundancy situation. The Tribunal is satisfied, having heard the uncontested evidence of the claimant, that the claimant was unfairly dismissed. Accordingly, the Tribunal awards the claimant €12,000 (twelve thousand euro) compensation under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)