

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
EMPLOYEE - *claimant*

CASE NO.  
UD90/2009  
MN81/2009

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: Mr L. S. Ó Catháin

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

heard this claim at Limerick on 28th July 2009

#### **Representation:**

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Claimant: Mr. Pat Whyns B.L. instructed by  
Mr Mark Murphy, Mark Murphy & Company, Solicitors, 99 O'Connell Street,  
Limerick

Respondent: Mr. Stephen Nicholas, Nicholas Nolan, Solicitors, Parnell House, 50/52 Parnell  
Street, Ennis, Co. Clare

The determination of the Tribunal was as follows: -

#### **Claimant's Case**

The claimant commenced work in 1991 with the respondent, she was responsible for all the accounting functions. The claimant requested to alter her working hours to finish at 5 instead of 5.30 and to compensate have half an hour less for lunch. The respondent refused the request and as a consequence the claimant felt de-moralised. The claimant gave two months notice on the 23<sup>rd</sup> of February. The claimant was required to train her replacement and provide back-up assistance at home if needed. The replacements employed did not work out so the claimant was asked to officially take up some duties and work from home. Two weeks later she accepted this request. The arrangement continued until the claimant commenced maternity leave on the 3<sup>rd</sup> of March only planning to take 6-8 weeks. After the 8 weeks were finished the claimant requested an additional week and was told to take her full entitlement if she wanted to. The respondent told her that the

people in the office were coping without her. The respondent said that things had gone quiet and her remuneration would have to be looked at on her return.

The claimant met with the respondent on her return to re-negotiate her pay and was offered €160.00 per fortnight for 10hrs work compared to her original pay of €300.00 per week. The claimant did not think this amount was enough and the respondent said he would get back to her. The respondent never came back to her so she called and was told he was busy and would return her call. The respondent never called so the claimant sent a text to him but she did not receive any further communication from the respondent.

### **Respondent's Case**

The respondent was shocked when the claimant handed in her notice. Towards the end of the claimant's notice period it was decided that she would stay on and continue a portion of her duties at home. The respondent informed her that this arrangement was on a temporary basis until the respondent's wife and sister could be fully trained to take over the claimant's role. During the claimant's Maternity Leave her replacements were trained fully. The respondent kept the claimant on after his wife was trained in to ensure his wife was not put under any pressure. Following the claimant's return the respondent had a discussion with the claimant about reducing her hours and pay. The claimant was not happy with the proposed situation and the respondent said he would contact her again regarding the situation. The respondent did not contact the claimant again but he did receive a text message saying the new arrangement would not be financially viable for her. All further contact with the claimant was through her solicitor.

### **Determination**

The Tribunal notes that throughout the claimant's employment the respondent treated the claimant fairly. However based on the evidence adduced the Tribunal finds that the claimants employment was terminated by way of Unfair Dismissal based on the provisions as set out in the Maternity Protection Act 1994 and 2004 and accordingly award compensation of €7,000.00.

There was no award made under the Minimum Notice And Terms Of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)