

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
Employee  
MN635/2008

CASE NO.  
– *Claimant* UD698/2008

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. D. MacCarthy S C

Members: Mr. E. Handley  
Mr. J. Dorney

heard this claim at Carlow on 19th November 2008 and 18th March 2009 and 19th March 2009

#### **Representation:**

Claimant: Mr. John Foley & Mr. Kevin Morgan, John M Foley & Company, Solicitors, Station Road, Bagenalstown, Co Carlow

Respondent: Ms. Ger Moriarty, Local Government Management Services Board, 35/39 Ushers Quay, Dublin 8

#### **The determination of the Tribunal was as follows:**

##### Respondent's Case:

The Landfill Manager gave evidence to the Tribunal. She was the claimant's line manager. The claimant was the Deputy Landfill Manager and he worked in the weighbridge on the landfill site. In the latter part of 2006 she noticed a change in the claimant's behaviour. On the 3<sup>rd</sup> November 2006 the claimant asked her on two occasions if she had a change of money. This was unusual as the site used a prepaid ticketing system. The claimant enquired of her if she was leaving the site and if so what time she would return at. As the Landfill Manager she had responsibility for two other sites and often attended meetings but she was on site with the claimant most days. She previously had cause to reprimand the claimant for failure to follow instructions and on another occasion he had refused to wear the new uniform provided to him.

The Landfill Manager expressed her concerns about the claimant to her manager a Senior Executive Officer. Her manager instructed her to observe matters and report if anything further occurred.

On the 6<sup>th</sup> November 2006 the claimant informed the Landfill Manager that he would not work Saturdays anymore. Saturday work was overtime and it was the choice of employees whether they wished to work it or not. Following this the Landfill Manager worked on the weighbridge on Saturday, 11<sup>th</sup> November 2006. She noticed that a number of tickets submitted to her in the weighbridge were marked with sellotape and when she enquired the customers told her the name of one specific shop where they had purchased their tickets.

On the 13<sup>th</sup> November 2006 she again spoke with her manager who requested that the Landfill Manager carry out a detailed investigation. The Landfill Manager carried out a detailed examination of all landfill tickets that were submitted to the weighbridge office from January 2006. A number of tickets were found with sellotape attached beginning in mid August. She discovered 158 tickets and also a €10.00 note, which was submitted to the weighbridge office with a ticket. The Landfill Manager presented these to her manager.

The Landfill Manager explained that there is no charge for bringing clay or rubble to the site if it is of use to the landfill. A haulier would usually contact her in advance. The witness named two hauliers (hereinafter A and B) and stated that they had not contacted her about bringing clay and rubble to the site.

The Landfill Manager brought the Environmental Protection Agency's waste acceptance procedures to the attention of all staff. She endorsed a system on site where all weights were recorded even those for which there was no charge (i.e. clay and rubble.) The witness did not instruct the claimant not to record the weights of clay and rubble entering the site. The claimant had completed a course module on waste acceptance procedures. The Landfill Manager was aware that the system could be manually overridden as the manual system was used when electricity was cut. However, manual entry was more time-consuming. On windy days the weighbridge could fluctuate but when it was allowed to settle the weight could then be recorded.

There were two printers in the weighbridge office. The operation of the printers for these reports did not hamper the recording of weights on the weighbridge. The claimant was usually asked to print reports once a week but not on Saturdays.

The Landfill Manager explained her system for recording weights on a typical Saturday when the site was busy. She would write the car registration number on the ticket. She deducted the weight of the vehicle leaving the site from the weight of the vehicle upon entering the site. The Landfill Manager had time to record all of the weights and enter all of the tickets into the system. Even on a busy day it was possible for her to make all the entries in the system. The claimant had never raised an issue about his workload with her.

As part of her investigation the Landfill Manager reviewed CCTV footage for a time when she was on annual leave. She noticed that the claimant did not record some of the transactions and that other transactions were missing when she compared it to the computer printouts from the dates concerned. She was surprised to notice that two particular hauliers (A and B) were not recorded when they entered the site and deposited waste. On occasions where the two hauliers were weighed the camera times did not match the times on the weighbridge dockets and it appeared that the weighbridge dockets were adjusted manually by the weighbridge operator, which resulted in the haulier incurring a lesser charge. The charges for waste types were outlined to the Tribunal. The claimant was on annual leave for a number of days in November 2006 and the two hauliers did not enter the site on these days. However, they deposited waste on Tuesday, 28<sup>th</sup> November 2006,

when the claimant returned to work.

The CCTV allows the camera to zoom in on number plates. On Tuesday, 28<sup>th</sup> November 2006 the Landfill Manager noticed a number of tickets that did not have a car registration number attached. She queried with the claimant why this was and why they were not entered on the system. The claimant replied that the cars were too dirty to read the number plates and he would have to make up a number to enter it on the system. She asked him to be more careful about recording car registration number and she suggested that he ask the owner of the car for the registration number in these instances. On Thursday, 30<sup>th</sup> November 2006 she again noticed the serial number of other tickets did not have car registration numbers attached. On Friday, 1<sup>st</sup> December 2006 she went to the weighbridge office and examined the weighbridge system to find out if these tickets were entered into the system but she found no record of the tickets on the system and the tickets were not in the weighbridge office.

The Landfill Manager outlined these details in a report to her manager dated the 1<sup>st</sup> December 2006. She concluded her report by stating that the claimant should be interviewed to explain the irregularities.

During cross-examination it was put to the witness that the claimant was left to manage the weighbridge of his own accord. The Landfill Manager replied that she had told the claimant to contact her by phone if she was not on site and there were also sub-contractors on site as well as two or three other employees.

It was put to the witness that an internal memo dated the 18<sup>th</sup> May 2005 had raised the issue of complaints being made about vehicles not being charged or weighed at the site. The Landfill Manager replied that her understanding of this memo was that all vehicles should be weighed and recorded unless there was a traffic build up on the main road leading to the site.

In reply to Tribunal questions, the Landfill Manager stated there were no circumstances where a commercial vehicle would be charged €15.00 (the sum for waste transported by car).

A Senior Executive Officer from the respondent's environment department gave evidence to the Tribunal. At a meeting the Landfill Manager raised her concerns about the claimant. The claimant had sought cash change from the Landfill Manager. The Manager had thought this was unusual as the landfill used a prepaid ticket system. The witness asked the Landfill Manager to monitor the situation and the transactions at the landfill.

On the 13<sup>th</sup> November 2006 the Landfill Manager again met with the witness. The manager had a number of tickets from the weighbridge and a €10.00 note, which was handed in the previous Saturday. The witness asked the Landfill Manager to perform a check from January 2006 to the present. The Senior Executive Officer checked the tickets against the register in the finance department.

The Landfill Manager submitted a report of her findings to the witness. This report was opened to the Tribunal. The procedures for landfill and waste acceptance were also opened to the Tribunal. A memo dated the 18<sup>th</sup> May 2005 was opened to the Tribunal. This memo was circulated to all staff at the landfill. As part of his employment the claimant attended a training course. A module of this course covered disposal at landfills. The procedures for operating a landfill stated that a written record must be maintained of what is entering the site.

The witness sent a report dated the 4<sup>th</sup> December 2006 to the Director of Services following on from the report of the Landfill Manager. This report stated that the Landfill Manager had informed her that there were possible irregularities occurring in relation to the day-to-day business being conducted by the claimant in the course of his duties as weighbridge operator at the landfill. The report further stated that since the 3<sup>rd</sup> November 2006 investigations had centred around the reselling of landfill tickets, hauliers entering and exiting the landfill without transactions being recorded, the altering of haulier weighbridge docketts and cash taken from customers on site in lieu or in addition to landfill tickets.

The witness had engaged surveillance services on the 15<sup>th</sup> November 2006 to assist in the investigation into the possible irregularities at the landfill. The witness outlined the findings in relation to each of the three investigations in her report. She also outlined the established and non-established facts and the loss of revenue to the respondent. The witness recommended to the Director of Services that the evidence presented warranted serious intervention by way of the respondent's disciplinary procedures and she recommended that the claimant be suspended with pay to allow a full investigation during which time the claimant be interviewed in accordance with the respondent's grievance and disciplinary procedures. In her report the witness stated that she was satisfied that the claimant's alleged actions fell within the meaning of gross misconduct as set out in the respondent's grievance and disciplinary document as, "*Acts which constitute gross misconduct are those resulting in a serious breach of contractual terms.*" The claimant's actions as outlined in the report fell into the category of:

- *Theft, fraud or deliberate falsification of records*
- *Bringing the respondent into disrepute.*

The witness further recommended to the Director of Services that the file be presented to the Gardaí for investigation regarding the loss of revenue to the respondent. The witness further recommended that the file be forwarded to the Gardaí for investigation regarding the re-selling of tickets by a specific shop and in relation to the involvement of the two hauliers (A & B). She recommended that the claimant be pursued for the loss of funds to the respondent from the period of the 17<sup>th</sup> November 2006 to the 22<sup>nd</sup> November 2006 approximately €6,090 (as could be established from camera footage).

The Director of Services wrote letter dated the 11<sup>th</sup> December 2006 to the claimant informing him that he was being suspended with pay to allow the respondent to investigate the matter fully. It was outlined to the claimant that the nature of the allegations against him related to:

- (a) Non-recording/non-charging of certain commercial hauliers entering and exiting the landfill.
- (b) Falsification of weighbridge docketts for certain hauliers.
- (c) Re-distribution of landfill tickets to a particular retail outlet.

The Director of Services charged the Senior Executive Officer with the investigation. The claimant attended a disciplinary meeting, accompanied by a union representative, on the 21<sup>st</sup> December 2006. At the outset of the meeting the claimant confirmed that he was familiar with correspondence issued in May 2005 setting out the charges, which applied to the landfill for the depositing of waste. The allegations were put to the claimant and the witness told him that the purpose of the meeting was to allow him an opportunity to respond to the allegations.

At the meeting it was put to the claimant that (in relation to non-recording/non-charging) on eight occasions haulier A had deposited waste at the landfill but there was no record of these transactions

being entered onto the weighbridge system or dockets issued in respect of the waste deposited. It was also put to the claimant that haulier B had entered the landfill site on six occasions but no records were found for these transactions having been entered on the weighbridge system or weight dockets issued in respect of the waste deposited. Some CCTV security footage was shown to the claimant from the period of the 17<sup>th</sup> November 2006 to the 22<sup>nd</sup> November 2006. The footage showed haulier A and B entering the landfill with skips of waste where no corresponding record of the transactions were found to be available from the weighbridge system. During the course of viewing the footage the claimant stated that everything weighed is entered into a logbook.

The claimant was asked why he had removed a telephone index book, a diary and a logbook from the weighbridge office on the 12<sup>th</sup> December 2006 when he was instructed in the suspension notice of the 11<sup>th</sup> December 2006 not to enter the site. The claimant stated there were personal phone numbers contained within the phone book. When the logbook was subsequently returned to the respondent a number of pages had been removed

The witness went through a number of documents with the claimant. The claimant responded, “no comment” or that he “didn’t know.” There were tickets found in the claimant’s drawer in the office of the weighbridge after he was suspended. The claimant denied knowledge of the retail store re-selling tickets or having any knowledge that tickets marked with sellotape were sold from this shop.

The number of phone calls from the office to haulier A increased during November 2006. The claimant acknowledged that 98% of the time he worked in the office on the weighbridge. If a customer brings good quality clay or rubble to the site and if it is deemed suitable for the purposes of landfill cover the customer is not charged for bringing the clay or rubble to the landfill. However, the CCTV showed footage the load received was actually commercial waste but was not recorded. The interview with the claimant lasted for over two hours. The witness did not see a purpose to interviewing anyone else as the claimant operated the weighbridge 98% of the time. The claimant was informed that the matter was referred to the Gardaí for investigation.

By September 2007 a considerable amount of time had elapsed since the respondent had referred the matter to the Gardaí. The respondent’s legal department advised the respondent to proceed with the investigation. By document dated the 30<sup>th</sup> November 2007 the witness outlined the findings of the investigation to the Director of Services and recommended to him that the claimant be dismissed from his employment for an act of gross misconduct. At the end of her investigation the witness was satisfied that there was non-recording/non-charging of certain hauliers entering the site, that there was falsification of weighbridge dockets for certain hauliers and that there was re-distribution of landfill tickets to a particular retail outlet. The Director of Services considered her report and he recommended that the claimant be dismissed. The recommendation was conveyed to the claimant by letter dated the 11<sup>th</sup> January 2008 and he was informed that he could appeal the recommendation to the County Manager within ten days.

When the claimant lodged his appeal of the recommendation the witness was asked by the County Manager to re-investigate. The secondary investigation commenced in March 2008. The witness reviewed the CCTV footage again and upheld what she had found in relation to non-recording/non-charging. In relation to the falsification of weighbridge dockets the witness recommended to the County Manager that the claimant be provided an opportunity to respond to new evidence. She did not re-examine the issue of reselling landfill tickets as that matter was in the hands of the Gardaí. Her report to the County Manager was dated the 9<sup>th</sup> May 2008.

The Head of Finance and I.T. Systems gave evidence that the Senior Executive Officer referred a weighbridge docket to him as part of the secondary investigation. The docket pertained to a date of the 11<sup>th</sup> December 2006 and related to haulier B. It was referred to him on the basis that a charge of 0.15cent applied to the transaction (the minimum charged should be €72.50) and that only a twenty-second difference showed on the weighbridge docket between the entry and exit times. The witness examined the transaction, the CCTV records and the software.

The weighbridge system on the 11<sup>th</sup> December 2006 records a weight of 10,060kg at 14.59.33 and a second weight of 9,820 at 14.59.53 giving a net weight of 240kg. The time delay between the weights was twenty seconds. The system software does not anticipate weights less than 240kg for waste type 200301 and accordingly rounds weight less than 240kg to 1kg. A charge of .15 cent applied when the minimum charge for this waste type was €72.50. The times on the security camera recorded the vehicles entering and exiting the site with a time difference of 13 minutes and 31 seconds.

The witness met with a representative from the system who confirmed that the first weight was entered manually on the system while the second weight was taken from the weighbridge. The weight of 240kg therefore, was manually derived.

With this information the witness examined the databases from January 2006 to December 2006 for all manual transactions for waste type 200301 in respect of a number of commercial customers and discovered a number of transactions for each customer where manual weights were entered. In total there were 62 manual transactions for which weighbridge dockets were signed by the claimant that had manual weights derived for calculating the charge due to commercial customers. The witness explained that the computer programme recognises that if the code for municipal waste is entered then a weight less than 240kgs is not registered.

There was no administrative reason why the transactions were processed in this manner. In his report to the Senior Executive Officer he stated that on the basis of these findings there was evidence of irregular activity at the landfill site.

A private investigator gave evidence to the Tribunal that the Senior Executive Officer contacted him at the end of 2006. The Senior Executive Officer asked him to investigate irregularities at the landfill site. He was asked to purchase landfill tickets at a particular shop and attend at the landfill to observe procedures. He compiled a report of his investigation, which was opened to the Tribunal.

The investigator purchased two tickets at the shop for a total of €30.00. The investigator observed that both of the tickets were marked with sellotape and were identified by a serial number. The investigator attended at the landfill in a commercial jeep and trailer, which was full of refuse. On arrival at the site he drove up on the weighbridge and the weighbridge operator (the claimant) asked him if he had tickets and the investigator told him he had one ticket. The claimant told him “ you probably need two but go on.”

The investigator expected that he would undergo a similar weighing procedure on his exit from the site but this did not happen and he did not receive a receipt or any other paperwork. The investigator carried out a similar investigation on another day. The investigator recalled that on each occasion he attended at the site there was a large vehicle on site, which did not follow the same procedure as he had. He noticed a vehicle behind him did not go onto the weighbridge. The investigator could not specifically recall if he was asked to place his vehicle on the weighbridge as

he exited the site.

During cross-examination the witness confirmed that he had not been asked to find a link between the claimant and the shop selling the tickets.

The fifth witness gave evidence that he was appointed to the position of County Manager in 2008. At that point in time the recommendation to dismiss the claimant was at the appeal stage. A meeting was held with the claimant and his solicitor on the 7<sup>th</sup> March 2008 to establish any additional information. The claimant made an admission regarding the non-recording of some transactions. No time constriction was put on the meeting. The County Manager agreed to examine the case in full.

The County Manager requested the Senior Executive Officer to re-examine the issues leading to the recommendation to dismiss the claimant. He received her review of the evidence in the report dated the 9<sup>th</sup> May 2008. The reselling of landfill tickets was not re-examined as the evidence was in the hands of the Gardaí. The Senior Executive Officer re-affirmed in her conclusion that in relation to the issue of non-recording/non-charging of certain commercial hauliers, the claimant had permitted haulier A and B to deposit waste without recording the transactions or applying the relevant charge. In relation to the falsification of weighbridge dockets the Senior Executive Officer recommended that the claimant be given an opportunity to respond to new evidence.

Following the completion of the new investigation the County Manager wrote to the claimant in letter dated the 16<sup>th</sup> May 2008 outlining the results of the investigation. He afforded the claimant twenty days to provide a response/explanation as to why he had manually processed fifty-nine weighbridge transactions for commercial hauliers.

Subsequent correspondence dated the 30<sup>th</sup> May 2008 from the claimant's solicitor was opened to the Tribunal. The County Manager wrote to the claimant in letter dated the 24<sup>th</sup> June 2008 informing him that in view of the evidence he was of the opinion that during the course of his duties as weighbridge operator the claimant had committed an act of gross misconduct through breach of the waste acceptance procedures pertaining to the acceptance of waste in the landfill and through his actions causing a loss of revenue to the respondent. The County Manager upheld the recommendation to dismiss the claimant and he communicated this decision to the claimant by letter dated the 24<sup>th</sup> June 2008. The claimant was in receipt of pay from the time he was placed in suspension pending the outcome of the investigation.

During cross-examination it was put to the County Manager that the ticketing system has been modernised and the weighbridge calibrated to weigh all weights. The County Manager confirmed improvements have been made.

#### Claimant's Case:

A County Councillor gave evidence to the Tribunal that in late 2005 the claimant approached him at a social event about some difficulties he was experiencing in carrying out his duties with the respondent. The claimant's difficulties related to operational matters and various procedural matters. The claimant outlined to him the procedures and how he was under pressure in carrying out his duties.

The witness's first reaction was to organise a meeting with the Landfill Manager but he felt distrust had built up between the claimant and his manager. Instead he organised a meeting with the then

County Manager. They met in April 2006 and the claimant outlined his concerns to the County Manager. The claimant may have mentioned a loss of revenue to the respondent in relation to another employee and that loads were entering the site without being documented. The County Manager recorded notes at this meeting and told them that he would take on board the issues raised. The witness believed the matter needed to be raised with the County Manager if staffing levels and out of date procedures were failing to provide customers with the service they were paying for. The outcome of the meeting was a revision of the ticketing system.

The claimant gave evidence that when he commenced work at the landfill, the manager at that time showed him how to record weights and the procedure for accepting tickets from the public. The manager was subsequently replaced by the first witness (Landfill Manager). The claimant went on a Fás course, which was about waste incineration etcetera but was not a specific course about landfill sites. The claimant was aware there was a specific course for weighbridge operators, as the Landfill Manager asked him if he would be interested in the course. If the opportunity had arisen the claimant would have undertaken this course.

Audits were carried out on the landfill on an annual basis. The audits found that the landfill site was running well but there were problems with litter and staffing levels. However, staff numbers did not increase.

There was no control of the public coming into the landfill and the system was open for abuse. Often members of the public entered the site with only one ticket. There was no way to make them pay the right amount at the right time. The Landfill Manager was aware of this. The claimant and a colleague prepared a list of car registration numbers entering the site and recorded the number of tickets these customers owed. This was not an official document but something they referred to as the "scrapbook."

He approached the Landfill Manager about this issue and asked her what could be done about incorrect payments. She suggested that letters could be written to the customers but nothing was done. The problems encountered involved the public paying for loads of waste with prepaid tickets. The majority of customers using the site would not have the correct amount of tickets for what they were bringing to the site. The claimant would have to tell the customers to go and buy more tickets and the customers would complain to him about this.

Also opened to the Tribunal was the official logbook for hauliers going through the system. The claimant outlined how the number of the haulier, the registration number and the type of waste was recorded. The claimant explained that the official logbook matched the computer system. Essentially there were three sets of records. In relation to commercial hauliers the claimant experienced a difficulty if a haulier entered the landfill site as he was printing reports. There were two printers in the office. One printer was for the reports and the other was to print the weighbridge dockets. If the claimant entered the lorry into the system then weighbridge docket printed into the middle of the reports. The manager who had trained him had shown the claimant the easiest thing to do was write down the weights in the scrapbook and let the haulier deposit the load. When the haulier returned to the weighbridge to exit the landfill enter the weight manually into the system. When he started in the role the manager at the time had taught him this system and everyone else on site was aware this system they used.

The claimant provided examples of other instances where he encountered problems with the weighbridge. As it weighed a maximum of 60 tonnes if a lorry entered with a docket stating the weight of the load the claimant would have to trust what was written on the docket and he entered



this manually into the system.

In relation to the docket which had a .15 cent charge on the 11<sup>th</sup> December 2006 the claimant did not recall this exact transaction but he surmised that he was busy on that date and had written down the weight of the lorry and entered it manually. The computer charges automatically and the claimant had no input into the charge applied by the computer system. The claimant found that entering weights manually was easier and it kept traffic moving. The manager who had trained the claimant had told him that in such instances the haulier should be charged €15.00 (the price of a domestic ticket). The claimant stated that it was unusual for a haulier to be charged €15.00 but it happened on occasion and it was sometimes possible that the haulier was carrying a low load such as aero board etcetera.

Regarding the re-distribution of landfill tickets the claimant stated that he did not pass landfill tickets to a retailer for resale. He stamped tickets he received in the weighbridge and entered them onto the system. Sometimes the claimant would miss a few car registration numbers and he would have a number of blank tickets. The claimant would make up a car registration number and enter the tickets on the system. He was aware that another colleague and the Landfill Manager also used this practice. The weighbridge tickets were left on the windowsill in the weighbridge or on the desk but the office was not secure and the claimant had previously raised with the Landfill Manager that there was no security for the storage of the tickets and he suggested a locker. Hauliers were in the weighbridge office on daily basis. The claimant had not been instructed that hauliers were not allowed to enter the weighbridge office and the office was freely accessible.

In relation to the non-recording/non-charging allegation the claimant stated that the week the Landfill Manager was on leave the office was short-staffed. The claimant would not telephone the other employees on the site unless it was an emergency. He did not receive complaints from the other employees about what was contained within the loads. As some hauliers have drawn to the site for years the claimant took them at their word when they provided him with the weight of the load. He did not carry out spot-checks but the employees on the site checked the loads that entered the site. A mid-size haulier with clay or rubble was not charged or recorded. The claimant stated that this system was in place since he had commenced working on the site.

The claimant again outlined problems he experienced with the printers in the office. In addition the claimant noted that there was no barrier in place on the weighbridge for cars, only for lorries. When small hauliers such as A and B entered the site the claimant would take a quick note of the weight of the lorry waiting rather than to try to back cars up which was dangerous and could cause damage. The claimant also outlined difficulties he had recording weights on a windy day. On such days the claimant made a note of the weight and recorded it manually. Other times the claimant would have to rectify entries made by other employees on the weighbridge system. On other occasions the Landfill Manager asked him to rectify weights on the system, which involved deleting weights on the system and re-entering weights manually.

When the claimant met with the Senior Executive Officer on the 21<sup>st</sup> December 2006 he did not feel that his explanations were listened to or that he had a chance to explain himself. He did not have an opportunity to cross-examine anyone. The system that was meant to be used in the weighbridge was completely different to what system was actually used by those working in the weighbridge, including the Landfill Manager and another employee.

When the claimant was provided with the letter of suspension he was shocked. He brought the telephone directory and the scrapbook from the office. He had been told not to return but he

wanted to get some personal items including a diary. The scrapbook contained contact numbers of some of his own personal friends. The claimant stated that he had not done anything wrong and that he had carried out his position the best he could with the system that was in place.

During cross-examination the claimant accepted that he was given every opportunity to put forward his case before the County Manager upheld the recommendation to dismiss the claimant. It was put to the claimant that the minimum charge for a commercial vehicle was €72.50. The claimant replied that on occasion commercial hauliers also paid with a €15.00 ticket.

In reply to questions from the Tribunal, the claimant stated that he had not refused to wear the new uniform outside the weighbridge office but he had told his manager it was too warm to wear the uniform in the office.

**Determination:**

The Tribunal carefully considered the evidence adduced at hearing. The claimant in his evidence outlined instances where non-recording occurred. The claimant admitted there were occasions when weights were not recorded and other occasions when he trusted the hauliers to provide him with the correct weight of the load entering the site. The claimant had previously expressed a concern regarding a loss of income to the respondent but he continued to allow some hauliers to enter the landfill site under these circumstances.

From stills of CCTV footage the Tribunal is satisfied that there were occasions when lorries entered the site and should have been charged for what they deposited at the site. The claimant admitted there were occasions when he charged a sum of €15.00 to a commercial haulier when the minimum charge was significantly more.

The claimant violated the respondent's waste procedures and caused a loss of income to the respondent. In all the circumstances the dismissal of the claimant was fair. Accordingly, the claim under the Unfair Dismissals Acts, 1977 to 2007, fails.

The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, fails as the claimant was dismissed by reason of misconduct.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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