

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

Employee

UD966/2008

- **claimant**

against

Employer

- **respondent**

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly BL

Members: Mr. L. Tobin
Mr A. Butler

heard this claim at Wicklow on 2nd June 2009

Representation:

Claimant :

Mr. Cormac O'Ceallaigh, Sean O'Ceallaigh & Co, Solicitors,
The Old Bank, Phibsborough, Dublin 7

Respondent :

No representation for or on behalf of the Liquidator

The determination of the Tribunal was as follows:-

The respondent company went into Liquidation on 18th March 2009

Claimant's case:

The claimant commenced his employment with the respondent in the summer of 2004. He worked seventy-four hours per week and was paid at the rate of €8.30 per hour. His job was to sweep the streets in the vicinity of building sites. He also worked for the city council and the claimant and his colleagues would go to specific areas. There were no complaints about the standard of his work. Prior to July 2008 he was sick with an ear infection and he also had problems with his eyes. He was hospitalised in Dublin and given medication but did not recover completely. After the treatment he spoke with his foreman and asked for two weeks holidays to go to Romania, as it was cheaper to go there to have operation. The foreman agreed and the claimant's son went with him to Romania. A few days before the end of the two weeks he asked his son to ring the foreman, as he has

etterEnglish, and to ask for a few more days. The foreman told him it was okay to take the days as requested, as it was not busy work-wise.

When the claimant returned to work there was a P.45 on the table. This was the first he heard from the respondent. As far as he knew the foreman was changed and a new man was coming from Hungary and there is an ethnic problem between Romania and Hungary. Other Romanians were sacked also and Hungarians were taken on.

The claimant then told the Tribunal of his efforts to secure alternative employment.

In answer to questions from Tribunal members witness stated that he went to a private clinic in Romania and paid for the operation therefore he was not given a medical certificate. He was entitled to four weeks annual leave and was having the treatment during his holidays. When he checked with the foreman about taking additional leave the claimant was to contact him if he required more time. The first indication he had that he had been absent without permission was when he received letter dated 25th July 2008 from the operations manager terminating his employment. The new foreman came on board while the claimant was in Romania and he did not know the situation. The other foreman had left. After the claimant came back from Romania he presented himself for work and was told there was no more work for him and he received his P.45 and letter.

Determination:

There was no appearance by the respondent and the Tribunal is satisfied that the Liquidator was on notice of the hearing.

Having heard all the evidence and viewed all the documents presented during the course of the hearing the Tribunal is satisfied that the claimant was unfairly dismissed and award him the sum of €20,870.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

