

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM OF:

CASE NO.

Employee

- Claimant

MN489/2008

Against

Employer- Respondent

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. P. Quinn B.L.

Members: Mr. G. Phelan

Dr. A. Clune

heard this claim at Limerick on 1st May 2009

**Representation:**

Claimant: No appearance or representation by or on behalf of the Claimant.

Respondent: No appearance or representation by or on behalf of the Respondent.

**The decision of the Tribunal was as follows:**

The Tribunal was aware that the Claimant had made contact with the offices of the Tribunal in the week prior to the scheduled hearing, to inform it that he would be unable to attend this hearing as he had now secured alternative employment and would be unavailable.

The Tribunal is satisfied that the Claimant was advised that in order to obtain an adjournment of the case, it would be necessary to make a formal application for a postponement to a sitting division of the Tribunal. No such application was ever made and the Tribunal is also aware that the Claimant had further communicated to the offices of the Tribunal, that he would also not be in a position to apply for a postponement of the matter.

Furthermore, notwithstanding the length of notice of this hearing which had been afforded by the Tribunal to the Claimant, no formal application for a postponement was made by or on behalf of the Claimant to a sitting division of the Tribunal in the weeks leading up to the hearing.

This case was also listed for hearing on two previous occasions on the 12<sup>th</sup> December 2008 and the 16<sup>th</sup> February 2009 and for various reasons the Claimant was similarly unable to attend on those dates also. On the first occasion, the matter having been listed for Cork at the request of the Claimant, no notice of non-attendance was furnished by him to the Tribunal.

**Determination:**

The Tribunal unanimously determines that the Claimant was aware of the date and time of the hearing but failed to attend, or have a representative attend on his behalf. Nor for that matter did the Claimant make a formal postponement application to have the case re-listed for an alternative date having had ample opportunity to do so.

In considering these facts and the history of the matter, the Tribunal determines that the claim of the Claimant under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, be dismissed for want of prosecution.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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