

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

Employee

- *claimant*

against

Employer

- *respondent*

under

CASE NO.

UD165/2009

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey BL

Members: Mr M. Noone
Mr. S. O'Donnell

heard this claim at Dublin on 2nd September 2009

Representation:

Claimant: In person

Respondent: Ms. Cliona Kimber BL instructed by:
Ms Lorraine Williams, Chief State Solicitors Office, State And European,
Litigation Section, Ormond House, Little Ship St, Dublin 2

The determination of the Tribunal was as follows:-

The representative on record for the claimant was not present on the day of the hearing. The claimant represented himself.

Preliminary Issue:

A preliminary issue was raised at the beginning of the hearing. The claimant commenced employment with the respondent on December 09th 2000 and was terminated on July 4th 2008. The claimant lodged a T1A form to the Employment Appeals Tribunal on January 15th 2009, this being 6 month and 11 days after his dismissal.

Preliminary Determination:

This claim was lodged outside of the six-month time limit from the date of termination of employment imposed by the Unfair Dismissals Acts, 1977 to 2007. Section 8 (2) of the Unfair Dismissals, Acts 1977 to 2007 states:

“A claim for redress under this Act shall be initiated by giving a notice in writing (containing such particulars (if any) as may be specified in regulations under Section 17 of this Act made for the purposes of subsection (8) of this section) to a Rights Commissioner or the Tribunal, as the case may be, within 6 months of the date of the relevant dismissal and a copy of the notice shall be given to the employer concerned within the same period.”

Section 7 (2) (a) and (b) of the Unfair Dismissals (Amendment) Act, 1993 states:

7(2) *“A claim for redress under this Act shall be initiated by giving a notice in writing (containing such particulars (if any) as may be specified in regulations under Section 17 of this Act made for the purposes of subsection (8) of this section) to a Rights Commissioner or the Tribunal, as the case may be -*

(a) within the period of 6 months beginning on the date relevant to the dismissal, or

(b) if the Rights Commissioner or the Tribunal, as the case may be, is satisfied that exceptional circumstances prevented the giving of the notice within the aforesaid, then, within such period not exceeding 12 months from the date aforesaid as the Rights Commissioner or the Tribunal, as the case may be, considers reasonable,

and a copy of the notice shall be given by the Rights Commissioner or the Tribunal, as the case may be, to the employer concerned as soon as may be after the receipt of the notice by the Rights Commissioner or the Tribunal.

Having heard the evidence of the claimant the Tribunal finds that the circumstances as described by the claimant were not exceptional as is required under the Act. The Tribunal therefore rules that it does not have jurisdiction to hear the case and the appeal therefore fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

(CHAIRMAN)