

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE **-claimant**
against

MN223/2009

EMPLOYER **-respondent**
under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. L. O’Cathain

Members: Mr. M. Forde

Mr. J. McDonnell

heard this claim at Killarney on 17 September 2009

Representation:

Claimant: Ms. Marguerite Fitzgerald, Mannix & Co. Solicitors,
12 Castle Street, Tralee, Co. Kerry

Respondent: XXXX director of the respondent

The decision of the Tribunal was as follows: -

Determination

The claimant was employed as a general operative from early July 2007. The respondent’s position was that the claimant last worked on 26 July 2008 with the last payslip issued on 1 August 2008 in line with the claimant being paid one week in arrears. The respondent informed the claimant that there would be a period of up to one week with no work. The claimant then returned to Poland and did not return to work. There had been work available for the claimant until some two months before this hearing. The claimant’s final position is that he went on holidays for two weeks from 14 to 28 July 2008, having earlier asserted that he went on holiday in August 2008, and when he returned there was no work for him and he took it that he was dismissed. Based on the claimant’s evidence it is not possible for the Tribunal to be satisfied that the claimant was dismissed. In such circumstances the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 must fail

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

(CHAIRMAN)