

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF: CASE NO.
EMPLOYEE UD262/2009
Against **claimant**
EMPLOYER **respondent**

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr T. Taaffe

Members: Mr. J. Reid
Ms. E. Brezina

heard this claim at Dublin on 13th November 2009

Representation:

Claimant(s): Mr. Brendan Archbold, 12 Alden Drive, Sutton, Dublin 13

Respondent(s): Mr John Kelly, Employee Relations Manager, H.S.E. Dublin
North-East, Saint Phoenix Hall, St. Mary's Hospital
Complex, Phoenix Park, Dublin 20

Mr. Con Power BL instructed by Mr. Andrew O Callaghan,
McCann Fitzgerald, Solicitors, Riverside One, Sir John
Rogerson's Quay, Dublin 2

The determination of the Tribunal was as follows:-

Preliminary Issue

At the outset of the hearing it was noted that the unfair dismissal claim was not served on the Tribunal within six months of employment termination as laid down under Section 8(2) of the Unfair Dismissals Act 1977.

Claimant's Case

The claimant told the Tribunal that she resigned her position with the respondent in March/April 2008 and her employment ended on 1 May 2008. She had three bereavements in her family in the period April to August 2008. As far as she could recall she joined a trade union in September 2007 as she felt that it was better to be in a union.

In cross-examination she stated that she did not feel that she was constructively dismissed on 1 May 2008. The first time she felt that she was constructively dismissed was at a meeting with her union representative some months ago. She was in contact with the union once or twice a week. She lodged a claim under the Unfair Dismissals Acts on 28 January 2009.

Determination

The claimant failed to establish that she intended to bring a claim within the prescribed time. Therefore the issue of exceptional circumstances arising, which would have prevented her from bringing the claim within this time period, does not arise.

The Tribunal does not have jurisdiction to hear the claim under the Unfair Dismissals Acts 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

