

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF: CASE NO.
EMPLOYEE UD122/2009
- **claimant**
against
EMPLOYER
- **respondent**

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K. T. O'Mahony B.L.

Members: Mr. M. Forde
Mr D. McEvoy

heard this claim at Cork on 20th October 2009

Representation:

Claimant :

Ms Mary O'Callaghan, Eamon Murray & Co, Solicitors, 6/7
Sheares Street, Cork

Respondent :

Not present or represented

The determination of the Tribunal was as follows:-

Claimant's case:

The claimant commenced her employment as a waitress with the respondent in July 2006. On 12th July 2008, on a night off, she and a friend were drinking in the bar, which they did on occasion. The respondent accused her of drinking vodka and red bull and that it had not been purchased on the premises. The claimant told her it was vodka and red lemonade and that it had been purchased on the premises. The respondent took the glass and emptied it. The respondent then started being abusive to her, calling such things across the bar at her as: "You're a tramp" and "You're no good working here". The claimant asked her why doesn't she fire her instead of employing her friends on her recommendation. Around closing time the claimant went and spoke to the respondent and suggested that they "forget it" and that she would continue working for her. The respondent

told her that she did not need her. Later while waiting outside the premises for a taxi the respondent asked to speak to her “for a second” and again accused her of consuming drink on the premises which had been bought elsewhere. The claimant told her to believe what she wanted and again repeated her position whereupon the respondent slapped her across the face. The claimant left the premises. Her friend saw what happened.

The claimant got into a taxi and a male customer told the respondent she was wrong in doing what she did. The respondent then slapped him across the face. The claimant was very upset and crying. Her mother took her to a garda station the next day and she made a complaint. The claimant felt she could not return to work.

Determination:

The Tribunal is satisfied that the respondent was duly notified of the hearing.

Based on the uncontested evidence of the claimant the Tribunal is satisfied that the respondent dismissed the claimant when the latter offered to forget what had happened and continue working but the respondent told her she did not need her.

The respondent having failed to attend and discharge the onus of proof, the Tribunal applies Section 6(1) of the Unfair Dismissal Acts and deems the dismissal unfair. Accordingly, the claim under the Unfair Dismissals Acts, 1977 to 2007 succeeds. Having taken the claimant’s period of loss into account the Tribunal awards the claimant the sum of €3,000 under the Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

