

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE - **appellant**

MN420/2009

against

EMPLOYER - **respondent**

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr T. Taaffe

Members: Mr C. McHugh
Ms. E. Brezina

heard this claim at Dublin on 8th October 2009

Representation:

Claimant :

In person

Respondent :

Mr. Dualta Moore, 40 Tivoli Terrace East,
Dun Laoghaire Co. Dublin

The decision of the Tribunal was as follows:-

Respondent's Case:

The Managing Director in his evidence to the Tribunal stated that in the contract of employment the appellant was required to work a six month probationary period and that one week's notice was required if the contract were to be terminated during the probationary period. Outside of the probationary period one month's notice was required. In this case the appellant had been employed for a period of three months so the one week's notice provision applied.

In relation to sick leave the contract stated that payment of sick leave was discretionary during the probationary period. The monies already paid to the appellant included payment for a period of

sick leave. This was later deducted from the minimum notice payment to her. Witness said he would pay her full entitlement but did not say he would pay one month's notice.

Appellant's Case:

The appellant stated that having signed the contract of employment she did not receive a personal copy for her own records. On 29th January 2009, she was told by the respondent that her job was being out-sourced and she was asked to leave that day. The respondent said that he would pay her the month and she took that to mean the one month's notice. Sick pay was not discussed. As another employee was paid for two days sick leave in January, she assumed that the same would apply in her case. However, the respondent quoted the relevant section from the contract of employment " Sick Pay will not be paid during probationary period other than at the sole discretion of the company".

Determination:

The appellant's claim is not well founded and the terms of the contract were implemented correctly. The claim under the Minimum Notice and Terms of Employment Acts, 1973-2005 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

