

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE - *claimant*

MN116/2009

UD124/2009

WT46/2009

against

EMPLOYER - *respondent*

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. P. Quinn BL

Members: Mr. J. Redmond
Ms H. Henry

heard this claim at Loughrea on 1st September 2009

Representation:

Claimant(s) : Purdy Fitzgerald Solicitors, Kiltartan House, Forster Street Galway

Respondent(s) : No appearance by or on behalf of respondent

The determination of the Tribunal was as follows:-

Preliminary Point

At the commencement of the hearing, the claims under the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Organisation of Working Time Act 1997 were withdrawn at the outset.

The Claimant testified ON OATH before the Tribunal, that in September 2003, he commenced employment with the Respondent in the Payroll Administration and Accounts Payable department. At all material times for the purposes of this determination he was effectively in receipt of a gross

weekly wage in the amount of €515.53

The Claimant testified that he was dismissed from his employment by the Respondent on the 5th September 2008

In the light of the foregoing and in the absence of any admissible evidence from the Respondent to show that the dismissal of the Claimant, resulted wholly or mainly from one or more of the matters specified in section 6(4) of the Unfair Dismissals Act 1977, or that there were other substantial grounds justifying the Claimant's dismissal, the Tribunal, in applying the provisions of section 6(6) of the Unfair Dismissals Act 1977, unanimously determines that the dismissal of the Claimant was unfair.

The Claimant in his form T1-A, had sought the remedy of compensation and the Tribunal unanimously determines, in the circumstances pertaining and in the events which have happened, that compensation was in fact the most appropriate form of redress for the Claimant in this instance. The Claimant testified that despite having made extensive and exhaustive efforts in that regard, as at the date of the hearing before the Tribunal, he had not succeeded in securing alternative employment and his sole income at that time constituted jobseeker's benefit.

In relation to the foregoing, extensive documentation was adduced by and on behalf of the Claimant to the Tribunal, to corroborate his testimony in these respects and the Tribunal is entirely satisfied that the Claimant had taken all reasonable steps and practical measures available to him, in an effort to mitigate his financial losses attributable to his dismissal by the Respondent.

Therefore as at the conclusion of the hearing before this Tribunal, it was established to its satisfaction, that the Claimant has incurred a financial loss to date on account of his dismissal and which was ongoing at that time. In such circumstances, the Tribunal was disposed to also award the Claimant a sum for prospective loss of income attributable to his dismissal by the Respondent.

However, it has to be acknowledged that the Tribunal's assessment in that respect has inevitably to be somewhat speculative, in the light of what may, or may not transpire for the Claimant or the Respondent, subsequent to the conclusion of the hearing before the Tribunal.

Taking all of the foregoing into account, the Tribunal has unanimously determined that that an award to the Claimant in the amount of €43,142.58 in all of the events which have happened, is just and equitable compensation for him, pursuant to the provisions of the Unfair Dismissals legislation, having made some allowance for ongoing financial loss into the future as and from the 1st September 2009.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

