

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE - *claimant*

UD1571/2008

against

EMPLOYER - *respondent*

Under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. P. Quinn BL

Members: Dr. A. Clune
Mr. G. Phelan

heard this claim at Limerick on 13th October 2009

Representation:

Claimant: Ms. Faye Revington BL
instructed by:
Mr. Mark Healy
Solicitor
Breen Geary McCarthy & Shee, Solicitors
2 Hartstonge Street, Limerick

Respondent: Mr. Feargal Lawlor
in attendance on behalf of Mr. Gearoid Costelloe,
Liquidator to the Respondent
Grant Thornton
Chartered Accountants & Registered Auditors
Mill House, Henry Street, Limerick

The determination of the Tribunal was as follows:

The Claimant testified that on the 23rd April 2007, he commenced employment with the Respondent as an Assistant Lounge Manager. At all material times for the purposes of this determination he was in receipt of a gross weekly wage in the amount of €460.00.

The Claimant testified that he was dismissed from his employment by the Respondent on the 11th August 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.

Whereas in his form T1-A, the Claimant had sought the remedy of reinstatement, the Tribunal unanimously determines, in the circumstances pertaining and in the events, which had happened, that compensation was the most appropriate form of redress for the Claimant in this instance.

As and from the 18th April 2009, the Claimant had secured employment in Dubai, with earnings of €1,900 per month and in such circumstances, it was accepted by the Claimant, there was no ongoing financial loss attributable to his dismissal as and from that date.

In respect of the period from the 11th August 2008 to 18th April 2009, the Claimant testified that he was looking for work constantly and to that end had registered with FAS and various employment agencies and had applied for positions in locations in Limerick, Tipperary and Westmeath.

No documentation whatsoever was adduced by, or on behalf of the Claimant to the Tribunal, to corroborate his testimony in these respects and whilst the Claimant also testified that he attended for interview at a particular location in County Westmeath, he was unable to inform the Tribunal of the identity of employer who was recruiting on that occasion.

Throughout the period concerned, the Claimant also testified that he had remained out of work, apart from a period in the order of four to six weeks where he secured employment as a Food and Beverage Manager at a hotel premises in Limerick.

By reason of the foregoing, the Tribunal unanimously determines that an award to the Claimant in the amount of €10,000, represents just and equitable compensation, pursuant to the provisions of the Unfair Dismissals Acts, 1977 to 2007. In determining the amount of compensation payable, the Tribunal had regard to the measures, or more appropriately the failure on the part of the Claimant to establish in his evidence to the satisfaction of the Tribunal, that he had adopted, or availed of all reasonable measures, to mitigate his entire financial losses attributable to his dismissal.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)