

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:  
EMPLOYER

CASE NO.  
UD1453/2008  
TE177/2008

against the recommendation of the Rights Commissioner in the case of:  
EMPLOYEE  
under

**TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001  
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms S. Behan  
Members: Mr. P. Casey  
Ms H. Kelleher

heard this appeal at Cork on 31st August 2009 and 12th October 2009 and 30th November 2009

Representation:

---

Appellant:

The appellant in person

Respondent:

IWU, 55 North Main Street, Cork

The determination of the Tribunal was as follows:-

This case came to the Tribunal by way of an appeal by the employer of the Rights Commissioner's recommendations r-056700-ud-07/DI and r-056999-te-07/DI

**Appellant's case**

The first witness for the appellant was a manager. This witness made the following assertions.

On the 6<sup>th</sup> July 2007 she informed the claimant that his job was redundant and that as a consequence he was being let go. A letter was given to the claimant along with his wages and he was paid in lieu of notice. The claimant had no queries and there was no unpleasantness.

The witness was not aware of any complaint of bullying by the claimant. She was aware that the claimant had hospitalised due to ulcers and had discussed this with him, but he never claimed it was caused by chemicals in the company.

The second witness was a director of the appellant company. The witness stated that the claimant was let go due to his job being redundant. Other employees, who commenced employment after the claimant, were kept on but this was because they had different skill sets and these skills continued to be required.

The witness denied that a complaint in relation to bullying had been made by the claimant. He also denied that the claimant was dismissed for being a trade union member.

### **Respondent's case**

The respondent alleged that he had been bullied in the work place and that he had suffered an illness as a result of chemicals used in the factory. However his claim was premised upon an allegation of his having been dismissed due to being a member of a trade union.

The respondent stated that he complained to a representative of the trade union about bullying and that this representative phoned the appellant on 4<sup>th</sup> July 2007. On 6<sup>th</sup> July 2007 the claimant was let go and paid two weeks wages in lieu of notice. This led the respondent to believe that he had been dismissed as a direct result of being a trade union member.

On cross examination the respondent was asked to produce a copy of phone records to prove that this alleged phone call was made on 4<sup>th</sup> July 2007. The respondent did not have such records. The appellant alleged that the respondent was also asked to produce these phone records at a previous session of the hearing.

### **Determination**

The employer was in breach of section 3 (1) of the terms of Employment (Information) Act 1994 in that he failed to furnish within two months after the commencement of the respondent's employment a statement in writing outlining his terms of employment. In the circumstances the Tribunal varies the Rights Commissioner's recommendation r-056999-te-07/DI and awards the sum of €1,380.60 in relation to this breach.

The respondent alleged that this dismissal was as a result of his trade union activity but he failed to prove this allegation. In the circumstances, the Tribunal is satisfied that the dismissal occurred by reasons of redundancy, which were particular to the respondent. Therefore the Tribunal upsets the Rights Commissioner's recommendation r-056700-ud-07/DI.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

