

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
Employee

CASE NO.
UD2071/2009
RP110/2009
MN1936/2009
WT883/2009

against

Employer

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. B. Garvey BL

Members: Mr. J. O'Neill
Mr. G. Lamon

heard these claims in Dublin on 16 June 2009 and 14 October 2009

Representation:

Claimant(s):
In person

Respondent(s):
Ms. Caroline McGrath BL instructed by
Ms. Brenda Rush, Patrick Tallan & Company, Solicitors,
New Town Centre, Ashbourne, Co. Meath

The determination of the Tribunal was as follows:-

The appellant lodged claims under redundancy, minimum notice, unfair dismissals and working time legislation. Her claim form stated that her employment with the respondent commenced on 1 January 2003 and ended without notice on 28 July 2008. Her gross weekly pay was stated to have

been €180.00 for her part-time work.

The appellant wrote that in July 2008 the shop (where she had worked) burned down and that a week later she was sent her P45. She was not given holiday pay or minimum notice at any time. The respondent informed her that he would be re-opening in six to eight weeks but she had not heard anything further from him by November 2008 when she requested her statutory redundancy. Subsequently, she was given numerous guarantees that the respondent would be opening the shop at dates in late 2008 or in 2009 but she had not been re-employed by the respondent.

At the Tribunal hearing the respondent's representative submitted that this was a redundancy situation (based on the appellant's service from 1 March 2003 to 28 July 2008) and that the respondent could not assure the appellant of a job. The minimum notice claim was not contested. It was submitted that the respondent did not have funds to pay a redundancy lump sum and would need social insurance fund support.

The respondent's representative also conceded that the sum of €108.00 was due to the appellant in respect of three days' outstanding holidays.

Determination:

The claim lodged under the Unfair Dismissals Acts, 1977 to 2007, is dismissed because redundancy and unfair dismissal awards are mutually exclusive, because it was not established to the satisfaction of the Tribunal that the unfair dismissal claim was lodged within the required time limit and because it was not established that the respondent was in breach of unfair dismissals legislation.

Under the Redundancy Payments Acts, 1967 to 2007, the Tribunal finds that the appellant is entitled to a redundancy lump sum based on the following details:

Date of birth:	26 June 1952
Date of commencement:	01 January 2003
Date of termination:	28 July 2008
Gross weekly pay:	€180.00

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

In addition, the Tribunal awards the appellant the sum of €720.00 (this amount being equivalent to four weeks' gross pay at €180.00 per week) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Also, the Tribunal awards the appellant the sum of €108.00 (this amount being equivalent to 0.6 weeks' gross pay at €180.00 per week) under the Organisation of Working Time Act, 1997, in respect of annual leave outstanding to her at the end of her employment with the respondent.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)