

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIMS OF:

CASE NO.

EMPLOYEE

UD561/2009

WT245/2009

MN567/2009

against

EMPLOYER

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. O'Leary B L

Members: Mr W. Power

Mr O. Nulty

heard this claim at Dundalk on 19th November 2009

Representation:

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Claimant:

Hamill Wallace & Hardy, Solicitors, 2 Demesne, Dundalk, Co. Louth

Respondent:

Ms Siughan O'Connor, Woods Aherne Mullen, Third Floor,  
Elgee Building, Market Square, Dundalk, Co. Louth

The determination of the Tribunal was as follows: -

**Claimant's case**

The claimant commenced employment on 30th June 2008 and her employment ended on 22<sup>nd</sup> Nov. 2008. The claimant alleged that she was dismissed because she was pregnant.

A contract of employment was in place, which stipulated thirty hours per week. However in the beginning the claimant was working between 38 and 41 hours per week. At the beginning of Oct. 2008, having completed a three-month probationary period, she was told that the probationary period was over, that she was working really well and they (the respondent) were happy. The claimant had already informed the respondent that she was pregnant and had been on certified sick

leave for one week prior to this.

After this the claimant was given 33 hours per week and this was further reduced to between 27 and 31 hours when another person was hired. This was despite the claimant requesting more hours.

On 18<sup>th</sup> Nov. 2008 the claimant was informed that she was being let go as the accountant had said that staff numbers needed to be reduced. However other employees who were taken on later than the claimant were retained.

**Respondent's case**

The first witness was the owner of the company. The business was opened in June/July 2008. Staff were taken on based on projected figures. However within the first few of operation it became apparent that turnover was far less than predicted. Consequently there had to be a reduction in the overall wage bill. There was a reduction in the weekly hours allocated to all employees along with a change in duties for a number of staff. However the witness stated that the claimant had requested a reduction in her hours prior to this reorganisation due to her pregnancy.

The decision to reduce the number of employees was taken and the claimant was the first to be let go as she was working the least number of hours per week. There have been others let go since and the remaining staff have taken on a range of new duties for example chefs were let go and other staff have taken over preparing and cooking hot dishes.

The second witness was a counter supervisor/manager. The witness stated that the claimant asked for a reduction in her hours due to being pregnant. Other staff have been let go since the claimant and the remaining staff are "multi tasking" the witness herself has taken on the duties of a manager who was let go.

**Determination**

The claimant confirmed that she had received one weeks notice and worked and was paid for this period therefore the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 fails.

The claimant withdrew the claim under the Organisation of Working Time Act, 1997.

Having considered the evidence the Tribunal are satisfied that the claimant was dismissed due to the economic circumstances of the respondent. The claimant failed to establish to the satisfaction of the tribunal that the dismissal was due to her being pregnant. Therefore the claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

(CHAIRMAN)