

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE

OWT70/10
MN815/2009

against

EMPLOYER

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Mr J. Hennessy
Mr. J. Dorney

heard this claim at Kilkenny on 16th February 2010
and 17th February 2010

Representation:

Claimants(s) The claimant in person

Respondent(s): In person

The decision of the Tribunal was as follows:-

Claimant's Case

The claimant told the Tribunal he commenced employment in the respondent's restaurant on 17 November 2008 and finished on 11 March 2009. He served customers. When he commenced employment he worked forty to fifty hours a week. In February/March 2009 he worked approximately twenty hours a week. He was paid in cash and he was not given a break down of the hours he worked. He was not paid holiday pay. On 11 March 2009 his employer told him to come in the next day and his employer did not tell him that he did not have any job for him. The next day his employer told him that he did not have a job for him and that he did not have to give him notice as he was part time. His employer told him that he could work his week's notice one week after he was given his notice. The claimant spoke to the employer on 12 March 2009 and the claimant was informed that he was not doing his job properly. He told his employer a week later that he had to give him notice.

The claimant stated that the employer's wife told him that she had given him some holiday money.

Respondent's Case

NW told the Tribunal that he informed the claimant on 11 March 2009 that he had to let him go and that he could work his week's notice. He told the claimant that some of the customers did not understand what he said. He discussed this matter with his solicitor before he dismissed him on 11 March. A week later the claimant returned and informed him that he was not going to work his weeks notice. The claimant received €10 per hour. Wages were completed in his accountant's office. The claimant refused to work the week's notice.

His wife gave the claimant €300 holiday pay but he did not have evidence of this for the Tribunal.

Determination

Having heard the evidence adduced in this case the Tribunal finds that the claimant is entitled to one week's gross pay in the amount of €215.00 under the Minimum Notice and Terms of Employment Acts, 1973 to 2005. He is not entitled to compensation under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

