

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

- claimant

MN865/09

UD828/09

Against

EMPLOYER

now known as

EMPLOYER

- respondent

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. McGrath BL

Members: Mr J. Horan
Mr F. Barry

heard this claim at Naas on 16th March 2010.

Representation:

Claimant: John M Foley & Company, Solicitors, Station Road,
Bagenalstown, Co Carlow

Respondent: In person.

The determination of the Tribunal was as follows:-

Determination:

The Tribunal has considered the evidence adduced at this hearing. The claimant having worked some seventeen months with the respondent company states that he came into work on 1st April 2009 to be told that he was going to be let go. On that same date the claimant states that he noticed that his salary for the previous month had not as yet reached his bank account.

The claimant states that he talked to the managing director of the company (DT) who told him it was nothing personal but that his salary was too high.

It should be noted that DT himself was not available to confirm or deny the content of the

conversation that the claimant says he had with him on that morning, 1st April 2009.

Neither party discussed notice and it seems that the claimant left the workplace on that date and did not return.

The respondent's evidence was to the effect that redundancies were due to be made in the workplace and that the claimant took it upon himself to leave the workplace before these formal redundancies were due to come into effect some four weeks later.

In law, the onus rests with the respondent to demonstrate that any termination of employment was fair and reasonable in all the circumstances. Whilst the employer has every entitlement to effect redundancies in the workplace for purely economic reasons the company must demonstrate a reasonable selection criteria, the possibility of restructuring and fairness to the individual.

In reality what happened on 1st April 2009 was that the claimant was dismissed by DT. He was not given the option of continuing to work for any period of time, however short. He was not invited to work out a notice period nor was he paid in lieu. He was simply let go without any warning. The manner of communicating the termination was singularly unfair and lacked any reasonable analysis of the workplace, nor did it give any opportunity to the claimant of re-negotiating his position in the workplace.

In the circumstances, the Tribunal finds that the dismissal to have been unfair in all the circumstances. In assessing compensation the Tribunal takes into account the fact that the claimant may well have been subject to a redundancy in the future.

The Tribunal awards the claimant €15,000.00 under the Unfair Dismissals Acts, 1977 to 2007 and also awards the claimant €646.25 being the equivalent of one week's gross pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)