

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

EMPLOYEE –**Claimant**

UD513/2009

RP534/2009

MN530/2009

WT224/2009

against

EMPLOYER - **Respondent**

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: Ms. K.T. O'Mahony B.L.

Members: Mr. D. Hegarty
Mr. J. Flavin

heard these claims at Cork on 19 April 2010

Representation:

Claimant:

Mr. Jan Potocki, Polish English Translation,
"Pilawa" Office 19, 21-23 Oliver Plunkett Street,
Cork

Respondent:

No appearance by or representation on behalf of the respondent

The determination of the Tribunal was as follows:

Determination:

This case initially came before a different division of the Tribunal in Cork on 26 January 2010 and on that occasion the claims under both the Unfair Dismissals Acts, 1977 to 2007 and the Organisation of Working Time Act, 1997 were withdrawn.

The claimant was employed by an agency, which sent him to work with the principal of the respondent from 10 January 2005. The claimant became an employee of the respondent from 19

October 2006. In August 2008 the claimant was notice of termination and the employment ended on 18 September 2008. The respondent company was dissolved on 11 January 2008.

The Tribunal is satisfied that the claimant received notice of termination exceeding his statutory entitlement. Accordingly, the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 fails.

In considering the claim under Redundancy Payments Acts, 1967 to 2007 the Tribunal can only consider the period of employment from 19 October 2006 when the claimant became a direct employee of the respondent. There is no provision in the Redundancy Payments Acts to consider service through an agency with an employer but immediately prior to joining that employer as continuous for the purposes of calculating service in order to qualify for a lump sum payment. It follows that when the employment ended on 18 September 2008 the claimant had insufficient service to qualify for a lump sum payment. Accordingly, the claim under these Acts must fail

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)