

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE

CASE NO.
UD1221/2009

- claimant

against
EMPLOYER

- respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr C. Lucey
Mr F. Keoghan

heard this claim at Dublin on 11th May 2010

Representation:

Claimant(s) : In Person

Respondent(s) : Mr. David Farrell, IR/HR Executive, IBEC, Confederation House,
84/86 Lower Baggot Street, Dublin 2

The determination of the Tribunal was as follows:-

Claimant's Case:

The claimant gave evidence. He commenced employment with the respondent as a floating driver in February 2006. In January 2007 the Transport Manager told him of a tour available in Mullingar and asked would he be interested in it. He provided his own van and, looked after his own tax affairs, was not paid any holiday pay and organised cover when he took leave. He invoiced the respondent company monthly of deliveries and collections he had made and was paid. He was supplied with a mobile phone but he paid the bills. He agreed he was self-employed.

Respondent's Case:

The former Depot / Transport Manager gave evidence. He stated the claimant and all drivers were sub-contractors. The claimant carried out work for the respondent and invoiced the company monthly. He did not get paid holiday pay and would supply cover if he took leave. The company paid the claimant and he would in turn compensate the person who covered for him. There was stipulation that the claimant could only work for the respondent company.

Determination:

Having heard the evidence adduced in this case the Tribunal finds that the claimant was not an employee of the respondent company and therefore cannot take a claim under the Unfair Dismissals Acts, 1977 to 2007. Accordingly the claim fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)