

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE - claimant

UD323/09

MN325/09

WT138/09

Against

EMPLOYER - respondent

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 T. Taaffe

Members: Mr G. Andrews
Ms M. Mulcahy

heard this claim at Naas on 10th May 2010.

Representation:

Claimant: Ms Patricia Sheehy Skeffington BL, instructed by Collins Crowley, Solicitors, 1
Malt House Square, Smithfield Village, Dublin 7

Respondent: No appearance by or on behalf of the respondent

The determination of the Tribunal was as follows:-

Taking into consideration the provisions of Section 4(2) of the Minimum Notice and Terms of Employment Acts, 1973 to 2005 and Section 1 (a) of the Unfair Dismissals Acts, 1977 to 2007 the Tribunal is satisfied that it has jurisdiction to hear the claim.

Claimant's Case:

The claimant commenced employment in early September 2006. He worked on two building sites on the north side of Dublin. Initially his hours of work were 8 am to 5 pm and then changed to 8 am to 6 pm. Some weeks he worked a five-day week and some weeks a six-day week. The

respondent supplied him with work tools. He was treated as an employee.

Towards the end of July 2008 he was working in the respondent's house. Before he returned home he telephoned the respondent. The respondent told him to stay in the house until the respondent's partner arrived. The claimant said he had to leave, as he had to attend a scheduled meeting at 6 pm and left. At 7 pm the respondent called him and said he was unhappy and to f... off and that he was firing him.

The claimant secured work immediately after his employment ended with no financial loss arising as a result.

Respondent's Case

The Tribunal is satisfied that the respondent was duly notified of this hearing. Neither the respondent nor a representative on his behalf appeared at the hearing.

No evidence was thus adduced.

Determination:

Based on the claimant's uncontested evidence the Tribunal finds that the claimant was directly employed by the respondent and that he was unfairly dismissed. The Tribunal awards the claimant €2050.00 under the Unfair Dismissals Acts, 1977 to 2007. The Tribunal also awards the claimant €517.00 under the Organisation of Working Time Act 1977.

The Tribunal is satisfied that compensation in respect of the minimum notice claim has been included in the award made by the Rights Commissioner under the Payment of Wages Act, 1991. In the circumstances the Tribunal makes no award under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)