

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

Employee

- claimant

CASE NO.

UD1287/09

Against

Employer

- respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr. N. Ormond
Mr. C. Ryan

heard this claim at Dublin on 27th May 2010.

Representation:

Claimant : In person

Respondent: No appearance by or on behalf of the respondent.

The determination of the Tribunal was as follows:-

Claimant's Case:

The respondent is part of a group of companies. The claimant commenced employment on 15th February 2006. He was employed as an Internal Marketing Agent and was responsible for negotiating new leases on properties for the Group and associated group's large commercial property portfolio. His work entailed dealing with eleven commercial property agents. He brought business into the company. His salary was incentive based, part wage, part commission.

Commission on lettings in 2006 was paid to the claimant in July/August 2007. In 2008 he sought commission owed to him for 2007 lettings. His commercial lettings figures were signed off by the Financial Director and submitted to Director LC for the claimant's bonus payment. He subsequently met LC in June 2008. LC contended that he could not justify paying commission owed to him for 2007. At a meeting the following day the claimant offered to give up his 2008 bonus payment but wanted to negotiate some bonus payment for 2007. The claimant was informed that he had a choice between his job and his bonus and to think about it.

The claimant agreed to give up his bonuses for 2007 and 2008 so that he could remain in employment. At that time LC agreed to fix a roof of the claimant's house.

On 17th October 2008 the claimant was called into the HR Manager's office and informed that there was not sufficient work for him and that he was being temporarily laid off. The claimant was shocked as earlier that year he had agreed to give up his commission for security of his job.

A co-worker, NM who was Marketing Manager continued to work for the Group. NM's office continuously called and e-mailed the claimant looking for information on commercial property deals that had been handled by the claimant. The claimant believed that there was clearly work for him to carry out.

On 24th November 2008, and while still on lay-off from the company, the claimant gave the respondent notice of his intention to claim a redundancy lump sum payment. (He subsequently received his redundancy payment.) He also tendered his resignation on that day. He was furnished with outstanding holiday money owed to him and his P45.

The claimant secured alternative work in November 2008 and is still in employment. He also acts for LC as an external agent and is in receipt of 7 ½ % commission of commercial lettings.

Respondent's Case:

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

Therefore, no evidence was adduced.

Determination:

The Tribunal carefully considered the evidence adduced at the hearing. The claimant stated in his own evidence that following a period of lay off he sought his redundancy entitlement from the company and also tendered his resignation. By doing so he terminated his own employment.

The Tribunal finds that the claimant was not unfairly dismissed and his claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)