

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:  
EMPLOYER

– appellant

CASE NO.  
PW122/2009

against the recommendation of the Rights Commissioner in the case of:

EMPLOYEE – respondent

V

EMPLOYER  
under

**PAYMENT OF WAGES ACT, 1991**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr R Maguire BL

Members: Mr C McHugh  
Mr S O'Donnell

heard this appeal at Dublin on 10th March 2010

Representation:  
\_\_\_\_\_

Appellant(s): In person

Respondent(s): In person

This case came before the Tribunal by way of an employer appealing the decision of a Rights Commissioner ref: (r-072226-pw-08/TB).

The decision of the Tribunal was as follows:

**Appellant's Case:**

A director of the appellant company, a financial services business, gave evidence that due to the downturn in the economy she had let a number of employees go. On Friday 17<sup>th</sup> October 2008 she told the respondent (henceforth referred to as the employee) and two others that she was giving them one week's notice.

When she arrived the following Monday morning she observed that two of the employees were casually dressed. When the employee arrived, late, one of the other employees asked the witness for a meeting. The employee was dressed in her normal office wear. The three employees went with the witness to a different part of the office where one of them, who appeared to be acting as a spokesperson, asked if they could leave immediately. The witness agreed, although it was a great inconvenience to her as she had intended to use the week being updated on files by the employees. She rushed through the files with each of the employees. The employee waited for the other two to finish and they then left together. The employee did not ask to stay on. She had asked the previous Friday if a different role could be found for her, but it was not a possibility.

During cross-examination the witness disputed the employee's contention that she would pay them for the week and help them financially, or that the claimant had asked to stay on for the week, as there was no reason to request this. She disputed that the claimant had asked to stay on the Monday morning. She questioned why the claimant had joined the two other employees for the meeting if she had intended to stay.

#### **Respondent's Case:**

The employee gave evidence that when she was told she was being given a week's notice she asked if she could work the week and the director said she could. She also asked about other positions in the company. The next day, Saturday, she received a text message from one of the other employees asking her if she intended to work for the week. She stated that she did and the other employee stated that she did not intend to work the week.

The employee was fifteen minutes late the following Monday morning. When she arrived one of the employees asked her to go to a meeting. She thought it was something to do with the files. At the meeting the other employees said they did not want to work for the rest of the week. The director said she would pay them and help them financially, but that she would have to speak to the accountant first. She asked if she could stay for the week, but the director said no.

After the meeting the employee updated her files for two hours. She contended that the other employees waited for her, as she had the most work to do. The director was restless and kept asking her when she was finished.

During cross-examination the employee agreed that the director had given her a week's notice on the Friday, but this was rescinded the following Monday morning.

#### **Determination:**

The Tribunal heard the evidence of both parties, including the appellant witness, who had been unavailable for the Rights Commissioner hearing. Having heard the evidence the Tribunal has decided to uphold the decision of the Rights Commissioner (ref r-072226-pw-08/TB) and awards the respondent (employee) €500.00 (five hundred euro) under the Payment Of Wages Act, 1991.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)