

## EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:  
EMPLOYEE - claimant

CASE NO.  
UD334/2008  
MN305/2008

against  
EMPLOYER - respondent

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms M. Petty  
Members: Mr. J. Redmond  
Ms H. Henry

heard this claim at Galway on 28th November 2008  
and 12th October 2009

#### Representation:

Claimant: Ms Denise Waldron BL instructed by Simon Gardner  
Solicitor C.P. Crowley & Co, Augustine House, Merchants Road,  
Galway

Respondent: Mr. Alastair Purdy Solicitor, Purdy Fitzgerald  
Solicitors Kiltartan House, Forster Street, Galway

#### Background:

The claimant did not get a contract. There was no grievance or disciplinary procedures. The claimant did not get a copy of the disciplinary procedures. The claimant asked D if he had been given a verbal warning and D replied, "No". D shouted at the claimant and said he did not believe the sick certificates and did not believe stress was an illness. D told the claimant to leave and not come back.

The Tribunal heard evidence from the claimant. He commenced work with the respondent on 22<sup>nd</sup> June 2006. He had a good relationship in work initially, however that changed in May 2007 when they were very busy. Then the work was quiet and some Polish workers were let-go and not replaced.

A few problems arose for example He found that if he did not fill a form correctly D would shout at him. Two employees walked out of the job; however they returned.

In January 2008 a new work system was introduced. Also D explained that there would be a new disciplinary procedure, "warnings etc". He was not provided with a copy of the procedures, neither disciplinary nor grievance procedures.

The claimant explained that one day (12<sup>th</sup> February 2008) D shouted at him to come to his office. D said, "How stupid can you be". He told D that he needed to keep a copy. D said that he did not want it done that way and threw the document on the desk. The claimant then walked out of the room. About four minutes later D arrived back and picked up another work document and started screaming and shouting at the claimant. He told D that he could not take that and told D that he was leaving. The claimant returned

on 18<sup>th</sup> February and D called him into his office. D told him that he did not believe that stress was a sickness; he did not believe the sick certificates. D told him to leave and not to come back.

The claimant then went to the doctor. Sick certificates were opened to the Tribunal.

The Tribunal heard evidence from the receptionist. She explained that she was sitting at her desk (on the day of altercation) when the claimant arrived in and D asked the claimant “which are the signed-off proofs?” D said, “Get rid of the old proofs and give the lads the jobs”. D said, “get rid of the old proofs for the second job”. The claimant then said, “I have had enough, I am going to do my CV”. The claimant then went out the door.

**Determination:**

The Tribunal finds that the claimant was unfairly dismissed. Based on the uncontroverted evidence of the claimant, the Tribunal finds that the claimant was dismissed on 18<sup>th</sup> February 2008; the day he returned to work after a period of sick leave and was asked to leave the premises and not to come back. The respondent gave no written contract of employment, no disciplinary or grievance procedures and no investigation of this matter, of any type.

Accordingly the Tribunal awards the claimant €13,741.22 (thirteen thousand, seven hundred and forty-one euro, twenty-two cent) under the Unfair Dismissals Acts, 1977 to 2007.

The Tribunal awards the claimant €831.10 (eight hundred and thirty-one euro, ten cent) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, in respect of two weeks notice.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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

