

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE - claimant

CASE NO.
MN976/2009
WT422/2009

against

EMPLOYER - respondent

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K.T. O'Mahony BL

Members: Mr. D. Hegarty
Ms. P. Doyle

heard these claims in Cork on 12 May 2010

Representation:

Claimants(s):
In person

Respondent(s):
No attendance or representation at hearing

The decision of the Tribunal was as follows:-

The claimant sought awards under minimum notice and working time legislation on the grounds that, after an employment with the respondent from 7 August 2007 to 8 February 2008, he did not receive his entitlements in respect of minimum notice or his holiday entitlements. He did acknowledge that he had taken two weeks' holidays during his employment but stated that he had not been paid for them. Having referred the matter to N.E.R.A. (the National Employment Rights Authority) to address it, he ultimately received a letter dated Friday 24 April 2009 telling him that: "Having regard to the cost of sustaining such an action, N.E.R.A. are not in a position to undertake such civil actions currently." On Thursday 30 April 2009 the Tribunal received a formal written claim from the claimant dated Tuesday 28 April 2009.

No evidence was offered by or on behalf of the respondent.

Determination:

Allowing the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, the Tribunal awards the claimant the sum of €581.25 (this amount being equivalent to one week's gross pay).

The claim under the under the Organisation of Working Time Act, 1997, was not lodged with the Tribunal within the statutory six month period as required by subsection 4 of section 27 of the Act. The Tribunal extended the time for the lodging of the claim under subsection 5 of the said section on the grounds that there was reasonable cause for the delay in lodging the claim in light of the fact that the claimant only received notification that the National Employment Rights Authority would not pursue his claim by letter dated 24 April 2009. It awards the claimant the sum of €813.75 (this amount being equivalent to 1.4 weeks gross pay at €581.25 per week) in respect of his outstanding holiday entitlements from his employment with the respondent.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)