

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE

UD394/2009

against

EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr D. Hayes

Members: Mr M. Kennedy
Ms M. Mulcahy

heard this claim at Dublin on 25th September 2009

Representation:

Claimant:

Mr. Thomas B. Halligan, Gaffney Halligan & Co, Solicitors,
Artane Roundabout, Malahide Road, Dublin 5

Respondent:

Lavelle Coleman, Solicitors, 20 On Hatch, Lower Hatch
Street, Dublin 2

The determination of the Tribunal was as follows:-

The respondent is engaged in a wholesale and retail food business. The claimant's employment began in September 2004, initially as a shop assistant. She became a supervisor in 2006 and was dismissed in December 2008.

Weekends were, by far, the busiest time of the week for the respondent. The claimant was required to work weekends. In October 2008 she informed her employer that she had enrolled on a three-year child-minding course and that she could no longer work from Friday to Sunday. Her employer told her that they would try to accommodate her but that no guarantee could be given. The Tribunal does not accept the claimant's evidence that she discussed the course with her employer in August, before having enrolled and that her employer raised no objections and offered her part-time employment.

By the end of November the respondent could no longer accommodate her as it needed to have a supervisor working at weekends. The matter was discussed with the claimant and she was given

notice of dismissal.

The claimant's dismissal came about because she, without notice to her employer, enrolled on a three-year course which required her to be absent from work at the time that she was most needed. It was, in effect, a unilateral attempt to vary her hours of work. Her employer tried to accommodate her but was ultimately unable to do so. That her employer acted reasonably towards her cannot be held against him.

The Tribunal is satisfied that there were substantial grounds justifying the dismissal and the claim under the Unfair Dismissals Acts, 1977 to 2007 therefore fails

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

