

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF: EMPLOYEE	<i>-claimant 1</i>	CASE NO. UD738/2009 MN757/2009 WT320/2009
EMPLOYEE	<i>-claimant 2</i>	UD739/2009 MN758/2009 WT321/2009
EMPLOYEE	<i>-claimant 3</i>	UD740/2009 MN759/2009 WT322/2009
EMPLOYEE	<i>-claimant 4</i>	UD741/2009 MN760/2009 WT323/2009
Against		
EMPLOYER	<i>-respondent</i>	
Under		

UNFAIR DISMISSALS ACTS, 1977 TO 2007 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 C. Egan B.L.

Members: Mr T. Gill
Mr P. Trehy

heard this claim at Loughrea on 10th March 2010

Representation:

Claimant: Kilfeather & Company, Solicitors, The Halls, Quay Street, Galway

Respondent: Gleeson & Kean Solicitors, High Street, Tuam, Co. Galway

The determination of the Tribunal was as follows:-

The claims under the Organisation of Working Time Act 1997 were withdrawn at the outset.

As dismissal is in dispute in all cases, it fell to the claimants to give their evidence first.

Claimant's Case

Claimant 1

The claimant was advised on the 3rd of October 2008 that there was no further work available for him. The claimant did not receive the letter from the respondent giving him notice. The claimant secured alternative employment a week later.

Claimant 2

The claimant was advised on the 3rd of October 2008 that there was no further work available for him. The claimant signed a contract of employment with the respondent but did not understand the content as it was not translated into his native language. The claimant did not receive the letter from the respondent giving him notice.

Claimant 3

The claimant was advised on the 3rd of October 2008 that there was no further work available for him. The claimant did not receive the letter from the respondent giving him notice. The claimant did not receive a contract of employment. The claimant did not receive an offer of work from the respondent after the date he was informed there was no further work available for him. The claimant secured alternative employment a week later.

Claimant 4

The claimant was advised on the 3rd of October 2008 that there was no further work available for him. The claimant did not receive the letter from the respondent giving him notice and was not aware that the job he was working on was coming to an end. The claimant did not receive a contract of employment. The claimant secured alternative employment a week later.

Respondent's Case

The respondent is an employment agency, which employed staff on a temporary basis. The office manager for the respondent is responsible for issuing the contracts of employment to the staff. All of the claimants were issued with contracts of employment but all but one refused to sign them. The office manager included a letter giving the claimants 2 weeks notice that there was no further work available for them with their payslips. The payslips including the notice letter were all collected from the office by one of the claimants and distributed to the other three, this was standard practice. Following their last day of work, none of the claimants contacted the respondent and three of them refused to take phone calls from the respondent. The respondent offered claimant 3 further employment but he did not turn up on the day he was supposed to start. The claimants requested their P45's by text and were issued with them the following week, the respondent hoped to have further work for them but they refused to answer their phones.

Determination

Having considered all the evidence adduced the Tribunal prefers the evidence of the respondent. The Tribunal find that the claims under the Unfair Dismissals Acts, 1977 to 2007 and the claims under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 fails for each claimant.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)