

## EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

EMPLOYEE  
- **Claimant**

UD1184/2008  
RP1018/2008  
MN1093/2008

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: Mr. E. Murray

Members: Mr. J. Hennessy  
Mr. T. Kennelly

heard this appeal at Clonmel on 27 May,  
24 September and 30 November 2009

#### **Representation:**

Claimant:

Mr. Aidan Leahy on the first day, Ms. Noelle O'Dwyer  
on the subsequent days, Donal T. Ryan Solicitors,  
89/90 Main Street, Cashel, Co. Tipperary

Respondent:

Mr. John P. Whelan, Matthew MacNamara & Son, Solicitors,  
Friar Street, Cashel, Co. Tipperary

The determination of the Tribunal was as follows:

#### **Determination**

The Claimant in this case came before the Tribunal on the 27 May 2009 seeking relief under the Unfair Dismissal Acts. On that occasion the T2 filed in the matter alleged that the Claimant had been dismissed for dishonesty.

After some discussion between the parties the Tribunal was advised that the matter had been resolved and that the case could be struck out with liberty to re-enter and the Respondent informed the Tribunal that they were withdrawing the allegations of dishonesty.

The matter again came before the Tribunal on two further occasions and ultimately on 30 November 2009. On this occasion the Tribunal was advised that the Claimant had in fact been made redundant and they wanted an order from the Tribunal to that effect. The making of such an order would enable the Respondent to reclaim 60% of the amount of the award from the Social Fund.

The Social Fund does not exist for the benefit of persons who have been legitimately dismissed from their employment or in ease of employers who have a legal obligation to pay monies other than legitimate redundancy payments to their employees.

In this case the Tribunal is not satisfied that the Claimant's dismissal was for reasons of redundancy. In the circumstances the Tribunal declines to make an order in this matter and the claim under the Redundancy Payments Acts, 1967 to 2007 fails. As the Tribunal was not satisfied that this was not a conduct based dismissal the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 also fails.

The claim under the Unfair Dismissals Acts, 1977 to 2007 was withdrawn.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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