

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE
- *appellant*

CASE NO.
UD1481/2009

against the recommendation of the Rights Commissioner in the case of:

EMPLOYER
- *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr J. Goulding
Mr J. Flannery

heard this appeal at Dublin on 10th June 2010

Representation:

Appellant: In Person

Respondent: No appearance or representation

This case came before the Tribunal as an appeal against the recommendation of the Rights Commissioner, reference number r-067045-ud-08/JT.

The determination of the Tribunal was as follows:-

The appellant told the Tribunal that he commenced working for the respondent in September 2000. In 2008 the appellant's wife was expecting a baby. The appellant spoke to the respondent and requested two or three days off, to be taken at the time of the birth. The respondent told the appellant that it would not be a problem. While working on a job in town the appellant got a phone call to say that his wife had gone into labour. The respondent told him to finish what he was doing and head off.

The following morning the appellant phoned the respondent and told him that his wife had given birth. The respondent congratulated him and asked him if he was coming into work. He reminded the respondent that he had agreed to give him a few days off and also informed him that he needed to go home and change.

The appellant attended a training course the following day as arranged. The respondent enquired if

he would be attending work the next day. The appellant again reminded the respondent that he had agreed to allow him two or three days off at the time of the birth. The respondent informed him that if he did not come in today then he should not come back.

Determination

The Tribunal is satisfied that the respondent was on notice of the hearing. The claimant gave uncontested evidence of his dismissal. As the respondent failed to attend the hearing and discharge the onus placed on it to establish that the dismissal was not unfair the Tribunal, applying subsection (6) of section 6 of the Unfair Dismissals Act 1977, deems the dismissal unfair. The Tribunal varies the recommendation of the Rights Commissioner reference number r-067045-ud-08/JT and awards the claimant €30,600 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

