## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

EMPLOYEE -claimant UD843/2009

MN882/2009

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 L. Ó Catháin

Members: Mr D. Hegarty

Mr. D. McEvoy

heard these claims in Ballincollig, Co. Cork on 13 April 2010

Representation:

\_\_\_\_\_

Claimant(s):

No legal or trade union representation

Respondent(s):

No legal representation

The determination of the Tribunal was as follows:-

Unfair dismissal and minimum notice awards were sought with regard to an employment allegedly dating from 1 January 2001 to 24 February 2009. These claims were made against a named individual (hereafter referred to as PB).

It was indicated to the Tribunal that the claimant had, in fact, ultimately been employed by a limited company (hereafter referred to as X) and not by PB personally. The Tribunal did not receive consent to amend the name of the respondent at the hearing. PB said that he was a fair man but that he did not have with him the witnesses whom he would need if the hearing were to proceed. He said that such witnesses would help him to show that the claimant had not had twelve months' service with X and that the claimant's service with a previous employer had not continued into his service with X.

## **Determination:**

The claims under the Unfair Dismissals Acts, 1977 to 2007, and under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, fail because the Tribunal declined jurisdiction on the grounds that the appeal was brought against the wrong respondent and there was not consent to amend the name of the respondent at the hearing so that the case could proceed on 13 April 2010. The Tribunal accepts that PB would have brought witnesses to the hearing if the claimant had claimed against X given that X was in fact the claimant's employer when the claimant's employment ended.

Sealed with the Seal of the
Employment Appeals Tribunal
This
This
(Sgd.)
(CHAIRMAN)