

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

EMPLOYEE– **First Named Claimant**

UD1517/2009
MN1511/2009
WT647/2009

EMPLOYEE
– **Second Named Claimant**

UD2327/2009
MN2163/2009
WT987/2009

EMPLOYEE
– **Third Named Claimant**

UD2328/2009
MN2164/2009
WT988/2009

EMPLOYEE
– **Fourth Named Claimant**

UD2462/2009
MN2302/2009
WT1055/2009

against

EMPLOYER
-**First Named Respondent**

EMPLOYER
-**Second Named Respondent**

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: Mr. C. Corcoran B.L.

Members: Mr. M. Noone
Mr. N. Dowling

heard these claims at Dublin on 28 July 2010

Representation:

Claimants:

Mr. Barry Quirke B.L. instructed by Ms. Elizabeth Howard,
Howard Synnott Solicitors, Ballyowen Castle,
Lucan, Co. Dublin

Respondents:

Ms. Anne O'Connell, William Fry Solicitors,
Fitzwilton House, Wilton Place, Dublin 2,
for the first named respondent
Mr. Barry O'Donoghue, Ferrys Solicitors,
Inn Chambers, 15 Upper Ormond Quay, Dublin 7
for the second named respondent

The determination of the Tribunal was as follows:

Preliminary Issue

At the outset the claimants' representative stated that, following a Transfer of Undertakings which had been effected on or around 30 October 2008, the claimants were satisfied that it was only against the second named respondent that they needed to proceed and accordingly the claims against the first named respondent were withdrawn.

At this point the representative of the first named respondent sought costs on behalf of her client on the basis that the facts of the October 2008 Transfer had been brought to the attention of the claimants and accepted by the second named respondent well before this hearing. It was submitted on behalf of the first named respondent that the actions of the claimants in continuing to pursue the first named respondent, in circumstances where it had been shown that at all material times the second named respondent was the employer, amounted to frivolous or vexatious action on the part of the claimants and sought expenses in the amount of €2,500-00 on behalf of the first named respondent.

Preliminary Determination:

Having listened to the submissions of all the parties and having considered the extensive inter-parties correspondence opened to it the Tribunal is satisfied that the claimants were well aware of the identity of their employer at all material times well in advance of this hearing such that their actions in not releasing the first named respondent from the case until the day of the hearing were frivolous or vexatious. Accordingly, under Paragraph 19 (2) of Statutory Instrument 24 of 1968, the Redundancy (Redundancy Appeals Tribunal) Regulations, 1968 the Tribunal awards expenses to the first named respondent in the amount of €1,500-00 to be divided equally between the four claimants. This sum is to be paid within 21 days of this determination being communicated to the parties.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

