

CORRECTING ORDER

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

- claimant

UD1432/09

Against

EMPLOYER

- respondent

EMPLOYER

- respondent

Under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms J. McGovern B.L.

Members: Mr. A. O'Mara
Ms M. Mulcahy

heard this claim at Dublin on 14th July 2010.

Representation:

Claimant: Mr. Barry Browne, B.L., instructed by O'Neill Quinn & Co., Solicitors, Grange
Cross, Ballyfermot, Dublin 10

Respondent Ms. Muireann McEnery, Peninsula Business Services (Ireland)
Limited, Unit 3 Ground Floor, Block S, East Point Business
Park, Dublin 3

The determination of the Tribunal was as follows:

This Order corrects the original Order dated 29th July 2010 and should be read in conjunction with that Order.

The parties are as stated above and not as stated in original Order dated 29th July 2010.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

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The determination of the Tribunal was as follows:-

At the outset of the hearing an application was made on behalf of the respondent for a postponement of the case. The representative indicated that said she had only been instructed that morning and as a result had not been properly briefed to defend the case. The Tribunal subsequently refused this application.

While certain correspondence sent to the respondent had been returned marked 'gone away', a telephone call was received from one of the respondents on 13 July 2010 indicating that he was not attending the hearing. The Tribunal is satisfied that the respondent was duly on notice of the hearing.

The Tribunal then proceeded to hear the claimant's evidence.

Claimant's Case:

The claimant commenced employment as a HGV Driver on 20th November 2006. He had a full clear driving licence. Approximately twelve drivers worked for the respondent.

At approximately 9.30 am on 24th June 2009 after returning to work following a delivery he proceeded to the canteen for his breakfast. During his breakfast he received a telephone call from MM who told him to leave the site as quickly as possible. He was accused of running over three people and driving over the speed limit. He took his paperwork to the transport office and left. He was shocked. En route to his home he received a telephone call from KB who said he would call a meeting and sort the matter out. The next morning KB telephoned him and asked to what address he should send the P45. He subsequently received his P45 together with a week's wages and a reference.

No attempt had been made to investigate the matter. The claimant had not received a contract of employment nor an employee handbook.

Following the termination of his employment he was unemployed for approximately four months. He was in receipt of social welfare payments during that time. He commenced working again on 20th October 2009.

Respondent's Case:-

No evidence adduced as the respondent was not present.

Determination:

The Tribunal carefully considered the evidence adduced at the hearing. The Tribunal has noted that the claimant did not have a contract of employment and that no disciplinary or grievance procedures existed within the company. The claimant was told to leave the site as soon as possible and was not given the opportunity to defend himself.

The Tribunal determines that the claimant was unfairly dismissed and awards him €12,000.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)