<div align="center">**EMPLOYMENT APPEALS TRIBUNAL**</div>

CLAIM OF: CASE NO.
EMPLOYEE – *appellant*   UD1351/2009

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

EMPLOYER   *- respondent*

under

<div align="center">**UNFAIR DISMISSALS ACTS, 1977 TO 2007**</div>

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J Flanagan BL

Members: Mr E Handley
               Ms M Maher

heard this claim at Dublin on 12th April 2010

Representation:

Appellant: No appearance or representation

Respondent: Mr John Murphy, Construction Branch SIPTU.
                      Liberty Hall, Dublin 1

The determination of the Tribunal is as follows:

This case came before the Tribunal by way of an appeal of the appellant employer against the recommendation of the Rights Commissioner with reference number r-064985-ud-08/MMG.

The Tribunal is satisfied that the appellant was properly notified of the hearing. The Tribunal was unable to make contact with the appellant at either of the telephone numbers provided on the headed paper used by the appellant in correspondence with the secretariat to the Tribunal. The Tribunal notes that the appellant had not attended at the hearing before the Rights Commissioner and the reason given on that occasion was that the principal in the appellant firm had missed his flight and that no other person had been available to attend on behalf of the appellant.

Determination

Based on the uncontroverted evidence of the respondent employee the Tribunal finds that he was unfairly dismissed. The recommendation of the Rights Commissioner is varied in relation to quantum (which had been found by the Rights Commissioner to be €10 000.00) and the recommendation is otherwise upheld. The variation in quantum reflects the view of the Tribunal as to when the respondent might have been reasonably expected to be made redundant had he been fairly selected for redundancy. The Tribunal therefore awards to the respondent €15 000.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the
Employment Appeals Tribunal

This   _____

(Sgd.) _____
       (CHAIRMAN)