

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE -*Claimant*

CASE NO.
UD178/2010

MN72/2009
WT30/2009

against

EMPLOYER -*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: Ms. D. Donovan B.L.

Members: Mr. J. Browne
Mr. T. Kelly

heard this claim at Wexford on 10th June 2010

Representation:

Claimant: Ms. Aoife Marrinan, Richard Grogan & Associates, Solicitors,
16 & 17 College Green, Dublin 2

Respondent: In person.

The determination of the Tribunal was as follows:

The claim under the Organisation of Working Time Act, 1997 was withdrawn, having been heard by the Rights Commissioners' Service on the 15th May 2009.

Evidence was given with the assistance of a Tribunal appointed translator.

Witnesses for the respondent in evidence stated that the claimant stole goods of the respondent. The Tribunal noted that the evidence of all of the witnesses for the respondent on this issue was hearsay. The claimant denied that she stole goods of the respondent.

Witnesses for the respondent in evidence stated that the claimant absented herself from work

without notifying the employer and without consent. The claimant in evidence stated that she did give notice to the son-in-law of the respondent with whom she worked because the respondent was out of the country and difficult to contact. The claimant gave no evidence as to whether this leave was consented to by any person for or on behalf of the respondent other than the said son-in-law gave her the price of the fare home. This was disputed.

Witnesses for the respondent in evidence stated that the claimant failed to carry out her duties of distributing fliers on occasions. This was not controverted by the claimant.

The claimant in her direct evidence stated that when she returned from holiday she was told that she was dismissed forthwith for misconduct. The claimant stated that she then requested her P45. No evidence was adduced as to whether the claimant at that time disputed the dismissal with the respondent; the evidence was that she merely requested her P45. In her direct evidence the claimant failed to put forward any reason as to why she felt she was dismissed.

Determination:

The Tribunal having carefully considered the evidence adduced at the hearing finds that the claimant was not unfairly dismissed but was dismissed for misconduct by reason of absenting herself from work without consent and for failing to perform the duties for which she was employed. The claim under the Unfair Dismissals Acts, 1977 to 2007, fails.

The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, also fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)