

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:

CASE NO.  
TU13/2009

EMPLOYEE - *appellant*

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

EMPLOYEE

against

EMPLOYER

EMPLOYER - *respondents*

under

**EUROPEAN COMMUNITIES (PROTECTION OF EMPLOYEES ON TRANSFER OF  
UNDERTAKINGS) REGULATIONS 2003**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J Flanagan BL  
Members: Mr D Winston  
Mr J Maher

heard this appeal at Dublin on 16<sup>th</sup> June 2010

Representation:

Appellant(s): In person  
Respondent(s): Ms Yvonne Finnegan, Catherine Allison & Co., Solicitors,  
6 Roden Place, Dundalk, Co. Louth

The decision of the Tribunal was as follows: -

This case came before the Tribunal by way of an appeal by the employee (hereinafter referred to as the appellant) appealing against the decision of a Rights Commissioner under the Protection of Employees on Transfer of Undertakings Regulations 2003 r-074018-tu-09/TB.

**Determination**

The appellant accepted that her working hours did not change immediately following the transfer of ownership of the undertaking but had remained the same for some months thereafter. Prior to the transfer the appellant had worked certain hours during the school year which fitted in with her need to be available to mind her child and without the necessity of engaging a childminder. During the school vacation the appellant worked a variety of different shifts determined mainly by when her husband was available to carry out child minding duties. She accepted that there was no substantial change in her working conditions to her detriment in the immediate aftermath of the transfer.

On the basis of the agreed dates between the parties the Tribunal finds that the claim was not in any event brought within the time limits set down in the regulations and there was no evidence of exceptional circumstances. Accordingly the Tribunal dismisses the claim under the Protection of Employees on Transfer of Undertakings Regulations 2003 and upholds the decision of the Rights Commissioner

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)