

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE

UD1676/2009

claimant

against

EMPLOYER

EMPLOYER

respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly BL

Members: Mr G. Mc Auliffe
Mr. P. Woods

heard this claim at Dublin on 25th August 2010

Representation:

Claimant(s): The claimant in person

Respondent(s): No attendance or appearance by or on behalf of the respondent

The determination of the Tribunal was as follows: -

Claimant's Case

The claimant told the Tribunal that he commenced employment with the respondent on 28 May 2007 as an apprentice electrician. On 3 December 2008 he went to work at 7.30a.m. He parked his car outside the building site and slept until 8.30a.m. His official start time was 8.00a.m. He intended to work through his break to make up for the time he lost. At approximately 8.20a.m. he received a call from the respondent ND who asked him where he was. The claimant told him that he had been on site since 7.30a.m. and ND told him that he would give him the benefit of the doubt. The claimant told him that he had a long commute to work and ND replied that he was paid to travel to work. The respondent told him to f.... off and go home and he received his P45 the next day.

He undertook work on the site on his own and he first met ND on this site. The respondent employment approximately fifty people in Dublin and Waterford. He knew employees were let go

and staff were made redundant. He had never been given a verbal or written warning. He was unemployed from December 2008 to August 2009 and was in receipt of social welfare benefit. He completed phase six of his apprenticeship with FAS in 2009. He then obtained employment with the ESB and he completed phase seven of his apprenticeship. He obtained alternative employment the week commencing 16 August 2010 as a general operative on a three-day week.

His employer deducted approximately €1,100.00 from his wages in respect of a pension scheme and he discovered that it was not paid into his pension fund. He received a statement dated 5 August 2010, which indicated that the value of his retirement account was €460.67.

Determination

The Tribunal are satisfied that the employer was aware of the hearing and was advised of the postponement practice in the Tribunal.

Based on the uncontested evidence of the claimant the Tribunal are satisfied that the claimant made all efforts to mitigate his loss and to obtain employment and improve his prospects. The Tribunal find that the claimant was unfairly dismissed and awards him compensation of €12,000.00 under the Unfair Dismissals Acts 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

