

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:

CASE NO.

EMPLOYEE - *claimant*

MN1101/2010

UD1613/2009  
WT729/2009

against

EMPLOYER – *respondent No 1.*

EMPLOYER – *respondent No 2.*

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
ORGANISATION OF WORKING TIME ACT, 1997  
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J. Fahy BL

Members: Mr. D. Morrison  
Mr T. Gill

heard this claim at Castlebar on 2nd November 2010

Representation:

\_\_\_\_\_

Claimant(s) : Ms. Susan Jones instructed by Ms Noleen Geraghty, Mark Cooney, Solicitors, 5  
Garden Vale, Athlone, Co Westmeath

Respondent(s) : No appearance by or on behalf of respondents

**Preliminary Point**

The claim under the Minimum Notice and Terms of Employment Acts 1973 to 2005 was withdrawn by the claimant's representative at the commencement of the hearing.

## **Claimant's Case**

The claimant began work in October 2007 and remained in employment until June 2009 when the restaurant closed. He was told there was no more work for him as the restaurant closed. The restaurant re-opened a short time later and he asked the new owner for work. He was told by the new owner that the restaurant was under new management and there was no work available for him. During his time working in the restaurant he only received one week paid holidays. He did not receive any extra payment for public holidays that he worked. Documentary evidence was produced to the Tribunal showing the claimant's gross weekly pay as €395.00.

## **Determination**

The Tribunal determines that there was a transfer of undertakings from the first named respondent to the second named respondent and finds that the second named respondent is the correct employer for the purposes of this determination. The Tribunal is satisfied that the second named respondent failed to notify the claimant of the transfer in accordance with the EC (Protection of Employees on Transfer of Undertakings) Regulations 2003.

Having heard the claimant's uncontested evidence the Tribunal is satisfied that he was unfairly dismissed. Accordingly the Tribunal awards the claimant the sum of €8540.00 against the second named respondent under the Unfair Dismissals Acts 1977 to 2007.

The Tribunal also awards the claimant the sum of €2528.00 against the second named respondent under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

