

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

EMPLOYEE

- claimant

CASE NO.

UD1353/09
MN1345/09
WT596/09

Against

EMPLOYER - respondent

EMPLOYER - respondent

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: Ms O. Madden B.L.

Members: Mr J. Horan
Ms. E. Brezina

heard this claim at Naas on 25th November 2010.

Representation:

Claimant: In person.

Respondent: No appearance or representation

The determination of the Tribunal was as follows:-

At the outset of the hearing the claim under the Organisation of Working Time Act, 1977 was withdrawn.

Claimant's Case:

The claimant commenced employment on 25th September 2007. He worked in hotel C and was employed as a Conference and Banqueting Manager/Duty Manager. At that time he reported to JOB who was the General Manager.

On 8th April 2008 management changes occurred and TE took over the role of General Manager. Everything was fine until 14th December 2008 when TE confronted him about his plans to leave in the near future. The claimant had mentioned to a few colleagues about returning to college in the

future. The claimant's understanding was that another colleague must have mentioned his plans to TE. TE was not pleased and he responded that he had no definite plans to return to college.

On 21st December 2008 TE again enquired about his plans. TE told the claimant he wanted him to finish up in the hotel after Christmas. The claimant told him that he was not happy with this. As the claimant was rushing to catch the train that evening he said he would continue with his conversation after his return from holidays.

On Monday 5th January 2009 he was scheduled to be off work but came into work to stock the bar. He met TE at the reception desk and asked TE to telephone him when he was ready to talk. TE called him into the library room and said "do you not realise you are finished today, you are not happy, it is not working out". The claimant did not know how to respond and asked TE to put in writing the reasons for his dismissal. TE said he would get the HR administrator (AW) to prepare the letter and it would be ready for collection the following day.

On Tuesday, 6th January 2009 the claimant telephoned AW in relation to the letter. AW was unaware he had been dismissed. The next day he met TE and TE told him that he had left of his own accord.

The claimant invoked the grievance procedure in a letter to TE dated 13th January 2009. TE wrote to the claimant on 4th February 2009. He outlined that due to the trading performance of the hotel it was necessary to implement a range of cost saving measures. This necessitated reducing staff numbers and the claimant's position fell into this category.

The claimant again wrote to TE on 8th April 2009 regarding the termination of his employment and sought further clarification. He did not receive a response to his letter.

The claimant told the Tribunal that two staff were hired in December 2008 and the hotel advertised for staff in January 2009. He had a good relationship with TE during his tenure and had never received any warnings about his performance.

He was in receipt of social welfare benefit from January 2009 to 14th September 2009. He then attended a course in college until May 2010 and after that secured work in the form of four months on and two months off working on a cruise ship.

Respondent's Case:

No evidence adduced as there was no appearance by the respondent.

Determination:

The Tribunal is satisfied that the respondent was properly notified of this hearing. Neither the respondent nor a representative on their behalf appeared at the hearing.

Based on the uncontested evidence of the claimant and the documents submitted the Tribunal is satisfied that the claimant was unfairly dismissed. The Tribunal awards the claimant €20,000 under the Unfair Dismissals Acts, 1977 to 2007. The Tribunal also awards the claimant €557.70 being the equivalent of one week's pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)