

## EMPLOYMENT APPEALS TRIBUNAL

**CLAIM(S) OF:**  
EMPLOYEE  
- *appellant*

**CASE NO.**  
MN2155/2009  
WT997/10

against

EMPLOYER  
- *respondent*

under

### 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: Mr T. Taaffe

Members: Mr. N. Ormond  
Mr J. Flannery

heard this claim at Dublin on 27th October 2010

#### Representation:

Claimant: In person

Respondent: Mr. Ken Stafford, Management Consultancy Services, 7 Castletown Court,  
Celbridge, Co. Kildare

The decision of the Tribunal was as follows:

#### **Determination**

The claimant handed in his notice to his employer on the 5<sup>th</sup> May 2009, his resignation was accepted on the 6<sup>th</sup> May 2009. It was agreed that he would work out his four weeks notice as gardening leave. On his first day of gardening leave 7<sup>th</sup> May 2009 he received a telephone call from the respondent accusing him of breaching the conditions of this leave. The claimant refuted this with the respondent and sent an email the same day stating he was prepared to accept two weeks pay plus his holiday entitlements to terminate his contract. The respondent accepted this position and the claimant received his two weeks pay plus one weeks holiday pay. At the hearing the respondent produced copy payslips showing this. The claimant also maintained he was owed holiday pay but was unable to clarify the amount owing; he thought it might be one day.

The Tribunal under the Minimum Notice and Terms of Employment Act 1973 –2005, can only deal with statutory entitlements, under this act the claimant was entitled to one week’s notice, which he received. Therefore the claim under the Minimum Notice and Terms of Employment Act 1973 –2005 is dismissed.

The Tribunal is satisfied that the claimant was adequately compensated for holidays due, therefore the claim under the Organisation of Working Time Act 1997, is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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