

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:

EMPLOYEE - *claimant*

CASE NO.

RP1551/2010

UD1614/2009

MN1102/2010

WT727/2009

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  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007  
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 claims under the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Redundancy Payments Acts 1967 to 2007 were withdrawn by the claimant's representative at the commencement of the hearing.



## **Claimant's Case**

The claimant worked from September 2007 until the beginning of July 2009 when the restaurant closed. The restaurant re-opened in Mid July 2009 and he sought work from the new owners. He was told that there was no work available to him as the restaurant was under new management. During his time working in the restaurant he only received one week paid holidays. He did not receive any extra payment for working public holidays. Documentary evidence produced to the Tribunal showed the claimant to be earning €407.90 per week.

## **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 €5579.80 against the second named respondent under the Unfair Dismissals Acts 1977 to 2007.

The Tribunal also awards the claimant the sum of €2610.70 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)

