

EMPLOYMENT APPEALS TRIBUNAL

Claim Of:
EMPLOYEE

–Claimant

Case No.
UD1971/2009
MN1856/2009

against
EMPLOYER

-Respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr C. McHugh
Mr. P. Woods

heard this claim at Dublin on 23rd November 2010

Representation:

Claimant: Ms. Sofia Purcell B.L. instructed by Mr. Pdraig Murphy, Solicitor,
54 South William Street, Dublin 2

Respondent: The liquidator.

The determination of the Tribunal was as follows:

The respondent company was a casino that has since entered into liquidation on 11 August 2010. The liquidator was present at the hearing. He confirmed he was unable to give evidence in relation to the circumstances surrounding the termination of the claimant's employment. However, he did dispute the gross pay amount as alleged by the claimant.

The claimant's payslips and P60 showed that the claimant's gross salary was €24,000 or €2,000 gross per month, which was paid by cheque. However, the claimant stated that he had received a further €3,250 in cash every month. This sum incorporated €1,000 for accommodation and €250 towards telephone costs. The claimant was informed that all matters relating to tax "had been taken of" for this sum.

Giving evidence the claimant stated that he had commenced employment with the respondent as a middle manager or "pit boss" in January 2005. Some four months later the claimant was promoted to the role of General Manager and he was responsible for all areas of the business.

Without prior notice or consultation the claimant was called to a meeting with Mr. L on Thursday, 4 June 2009. Mr. L informed the claimant that he no longer owned the business and as a result redundancies would occur beginning with the claimant's role. Some fifteen minutes later as the claimant was leaving the premises two men entered the casino and announced to the staff that the claimant no longer worked there. The claimant knew he had been replaced in his position and he requested a meeting with Mr. L to discuss the issue. A meeting was arranged but Mr. L failed to attend the meeting.

The claimant gave evidence relating to the mitigation of loss until he was successful in securing new employment abroad in April of this year.

Determination:

Based on the claimant's uncontested evidence the Tribunal finds that the dismissal of the claimant was unfair. In considering the award to be made to the claimant the Tribunal considered the gross pay figure as stated by the claimant's payslips and P60 for 2008 (i.e. €24,000 per annum). The Tribunal awards the claimant compensation in the sum of €20,000 under the Unfair Dismissals Acts, 1977 to 2007.

The Tribunal finds that the claimant is entitled to €923.08 (being the equivalent of two weeks' gross 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)