

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

-claimant

CASE NO.
UD1779/2009

against
EMPLOYER

-respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr C. Corcoran B.L.

Members: Mr. L. Tobin
Mr G. Whyte

heard this claim at Dublin on 19th October 2010

Representation:

Claimant: Mr. Niall Nelligan B.L instructed by PC Moore & Co, Solicitors, 17 South Great George's Street, Dublin 2

Respondent: XXXXXX for the respondent

Preliminary Issue

The respondent maintains that the claimant does not have the required service to make a claim under the Unfair Dismissals Acts 1977 to 2007.

Applicant counsel submits the claimant started on the 4th of April 2008 that as a result of a case the claimant took to the Rights Commissioners under the Minimum Notice and Terms of Employment Acts, 1973 to 2001, the respondent issued the claimant with a statement of her terms and conditions of employment. The claimant's Terms and Conditions of employment state, 'you will be required to give and entitled to receive one calendar months notice of termination of employment.' The claimant is entitled to one week's statutory notice. The claimant was dismissed without notice on the 23rd of March 2009. The claimant's P45 is dated the 29th of March 2009.

Determination

Allowing for one months notice as per the claimant's Terms and Conditions of Employment, and having regard to the provisions of section 1(b) of the Unfair Dismissals Acts 1977 as amended, the Tribunal rules that the claimant does have the required service to make a claim under the Unfair Dismissals Acts, 1977 to 2007, and accordingly it does have jurisdiction to hear this case. The hearing proceeds.

Respondent's Case

It was noted that the respondent had not filed a T2 form under the prescribed regulations. When the representative of the respondent was queried on this he indicated that he had no explanation or instructions in relation to this matter.

He stated that he did not wish to ask the claimant any questions or to contribute any further to the proceedings. He only wished to make one submission as already stated i.e. that the claimant does not have the required service to make a claim under the Unfair Dismissals Acts, 1977 to 2007.

He further stated that she was a good worker and well behaved, and there were no disciplinary matters against her.

Claimant's Case

The claimant was employed as 'floor staff' with the respondent from the 4th of April 2008. On the 23rd of March the claimant was informed by the respondent that, due to the recession there is no further work available for her. The claimant was informed that the respondent was moving in a different direction and she was not part of that team. The dismissal was effective immediately. The claimant collected her P45 the following week and discovered an additional member of staff who she believes was her replacement.

Determination

The Tribunal find that the claimant was summarily dismissed. The respondent did not use fair procedures in effecting the claimant's dismissal. The dismissal in the circumstances was unfair.

The Tribunal finds that the claim under the Unfair Dismissals Acts, 1977 to 2007 succeeds and awards the claimant €8,467.00 as compensation.

Further the Tribunal in the circumstances holds that the respondent had no entitlement to appear in this Tribunal even though the Tribunal took into account the submission of the respondent as tendered to it.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)