

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE

UD1917/2009

*claimant*

against

EMPLOYER

EMPLOYER

EMPLOYER

*respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr M. O'Connell B.L.

Members: Mr. L. Tobin  
Mr A. Butler

heard this claim at Dublin on 15th February 2011

Representation:

\_\_\_\_\_

Claimant(s): The claimant in person

Respondent(s): No attendance or representation by or on behalf of the respondent

The determination of the Tribunal was as follows:-

#### **Claimant's Case**

The claimant told the Tribunal that she was a part time hair stylist with the respondent and worked twenty-six hours a week. She was paid a basic wage plus commission. Commission was based on ten per cent of the clients that she had. She did not receive a contract of employment or conditions of employment. Approximately fifteen to twenty were employed in the salon. Things changed one and a half years before she was dismissed. She was quiet and did not stand up for herself. Work was taken from her and distributed to other employees. She was told to quicken up and to get more money in which she did. The owner told her on one occasion that she was slow and she improved. The owner spoke to all the hair stylists regarding, targets, clients and selling products. She did not receive a letter to say that the owner was unhappy with her work. On 12 February 2009 a casual

client came in to the salon, the claimant was asked to look after her but this client was then assigned to another hair stylist.

She was not told that she would face disciplinary action if her work would not improve. A meeting was held on 31 December 2008. She did not tell the owner she was pregnant. On 19 February 2009 she was told that she was being let go due to her performance. She asked her if she was entitled to redundancy and she was told to go there and then. She received holiday and any monies that were due to her. She was unemployed after this for a period of five and a half weeks. On 2<sup>nd</sup> April 2009 she started a new job at the same rate of pay as she had previously earned. She was on maternity leave, which expired in February 2010. She has not worked since February 2010 and has been seeking employment.

### **Determination**

The Tribunal on the uncontested evidence of the claimant believes that there were no substantial grounds for her dismissal. A complaint was made that her work rate was slow. She improved her work rate but despite this she did not believe that she was given a proportionate share of the work. As she was paid partly by commission this resulted in a reduction in her income. No formal written complaint was ever made and there was no formal attempt on behalf of the respondent to deal with the concerns that it had. The Tribunal further believes that the procedures followed by the respondent in terminating her employment were grossly defective because they did not include any warnings or disciplinary process. Accordingly the Tribunal believes that the claimant was unfairly dismissed. The Tribunal notes that she was out of work for two periods: firstly for five and a half weeks until the 2<sup>nd</sup> April 2009; and latterly from 1 February 2010 to date and in between the two periods of unemployment the claimant was on maternity leave. Since February 2010 the Tribunal accepts that she has sought to mitigate her loss by seeking employment and that she is anxious to return to work. The Tribunal awards the claimant compensation of €20,000.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

