

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

EMPLOYEE

UD1235/2009

MN1238/2009

against

EMPLOYER

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: Mr D. Herlihy
Members: Mr. W. O'Carroll
Mr T. Kelly

heard this claim at Limerick on 17th November 2010

Representation:

Claimant: In person

Respondent: In person

The Tribunal heard evidence from a supervisor (TB) for the respondent. He explained that on Saturday 30th April the claimant told him that he was giving him a week's notice. He asked the claimant why and the claimant told him that he was just after buying a house and that the Social Welfare would pay some of the mortgage. He pleaded with the claimant to stay on in work because he was a good worker but the claimant refused. The claimant finished working there a week later.

The claimant put to the witness that he told him he would be out sick for a few weeks. Then he had an accident at work and hurt his back. The claimant produced medical certificates to the Tribunal. The claimant contended that he did not say he was leaving or give his notice. He also stated that he received his p45, which was delivered by company van driver, when his medical certificates were active.

The company contended that they had no record of an accident at work and that they did not have medical certificates for the claimant. TB gave evidence that he had no recollection of the claimant giving him a medical certificate but conceded that he may have given him a certificate.

A witness for the claimant gave evidence that he travelled to the respondent's yard with the claimant. He was waiting in the claimant's van when he witnessed the claimant give a certificate to

TB.

The claimant was asked who was it that dismissed him and he replied that he received his form p45 on 21st May.

Determination:

The employer brought no documentary evidence, whereas the claimant produced documentation including the P45, which the employer was unaware had been issued. The respondent contended that they had attempted to contact the claimant verbally to offer him work, but they produced no supporting evidence of this. There were no procedures of a fair and reasonable nature. The Tribunal unanimously determines that the dismissal was unfair. The Tribunal also determines compensation to be the most appropriate remedy and awards the claimant the sum of €8,000.00 (eight thousand euro), under the Unfair Dismissals Acts 1977 to 2007.

The claim under the Minimum Notice and Terms of Employment Acts succeeds and the claimant is awarded €782.68 (seven hundred and eighty-two euro, sixty-eight cent), as compensation in respect of two weeks notice.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)