

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD146/2010

Against

EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly B.L.

Members: Mr. T. O'Sullivan
Mr. P. Woods

heard this claim in Dublin on 21st April 2011

Representation:

Claimant : Mr. Paul Henry, SIPTU, Membership Information &, Support
Centre, Liberty Hall, Dublin 1

Respondent : No representation listed

The claimant began work with the respondent in May 2007. The employment was uneventful until January 2009. The claimant requested extended annual leave for 2009 with his employer for a six-week period in July/Aug as he was returning to Hungary to get married. The leave was granted by his H.R. manager.

The claimant's position was that he had to return to Hungary for a family matter in March of 2009. He took 2 weeks annual leave and was unable to contact his manager before he went away. He did send a text message to his manager at an unspecified date from Hungary. On his return to work the claimant stated that there was no mention of his intended requirement for extended annual leave in July/Aug. He was unaware of any change to his original request for leave that had been granted.

The respondents branch manager stated in evidence that the claimant had failed to contact him when he took his leave in March 2009. He told the claimant on his return to work that it would no longer be possible to allow him his extended period of leave which had been granted for July/Aug. He was asked to return to work on 6th July and not the 4th August as previously agreed.

The claimant informed his manager on 18th June that he was taking the six- weeks annual leave and would return to work on 4th August.

On 19th June 2009 he was issued with a letter stating that the extended leave would be unauthorised and if taken disciplinary proceedings would follow.

The claimant did not return to work until 4th Aug. He was suspended with pay and disciplinary procedures were implemented, resulting in his dismissal.

The determination of the Tribunal was as follows: -

The Tribunal having carefully considered the evidence adduced at the hearing finds that the claimant was not unfairly dismissed but was dismissed for misconduct by reason of absenting himself from work without consent.

There is evidence that leave was taken in March 2009 and the Tribunal preferred the respondent's evidence that the entitlement to extended leave was withdrawn.

The claim under the Unfair Dismissals Acts, 1977 to 2007, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

