

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:  
EMPLOYEE

*-Claimant*

CASE NO.  
UD92/2010

MN101/2010

WT58/2010

against  
EMPLOYER *-Respondent*

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007  
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. D. Donovan B.L.

Members: Mr.J. Hennessy  
Ms. S. Kelly

heard this claim at Waterford on 13th April 2011

**Representation:**

Claimant: In Person

Respondent: Mr. Michael McNamee B.L. instructed by DAS Group, 12 Duke Lane,  
Dublin 2

**The determination of the Tribunal was as follows:**

Preliminary Issue:

At the time the claimant's employment was terminated she did not possess the requisite twelve months service to enable her to bring a claim under the Unfair Dismissals Acts, 1977 to 2007.

It was the claimant's position that she was unsure whether or not her employer was aware that she was pregnant at the time of her dismissal on 15<sup>th</sup> June 2009, as the claimant did not inform her employer when she became pregnant in March 2009. However, the claimant did confide in another employee during March 2009 that she was due to attend hospital in relation to pregnancy-related problems.

One day after she became pregnant the claimant telephoned her workplace to inform her employer that she would be absent due to illness. From that time a number of questions were put to the claimant and a number of statements were made to her, surrounding the subject of having children. The claimant believed from the comments made to her, that her employer had reached the conclusion she was pregnant and dismissed her as a result.

The claimant disputed that she had been paid in lieu of notice and claimed that outstanding holiday pay was owed to her.

It was the respondent's position that the company was unaware of the claimant's pregnancy and that the dismissal of the claimant from her employment was in relation to other matters.

The respondent company was satisfied that the relevant notice payment and holiday pay had been made to the claimant at the time of her dismissal. Documentary evidence was submitted to the Tribunal in this regard.

**Determination:**

The Tribunal is satisfied from the evidence adduced that the claimant's dismissal was not pregnancy related. The claim under the Unfair Dismissals Acts, 1977 to 2007, therefore must fail for want of jurisdiction.

The Tribunal is satisfied from the evidence adduced that the claimant was paid a week's pay in lieu of notice. Consequently, the claim under the Minimum Notice and Terms of Employments Acts, 1973 to 2005, fails.

The Tribunal is satisfied that there is no further holiday pay owing to the claimant and dismisses the claim under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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