

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE - *claimant*

CASE NO.
UD2415/2009

MN2231/2009

against
EMPLOYER - *respondent*

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms M. McAveety

Members: Mr. W. O'Carroll
Mr N. Dowling

heard this claim at Mullingar on 4th May 2011

Representation:

Claimant(s) : Ms. Emeria Flood, Nooney & Dowdall, Solicitors, Mary
Street, Mullingar, Co Westmeath

Respondent(s) : No appearance by or on behalf of respondent

Claimant's Case

The claimant gave direct evidence that she commenced working for the respondent on 10 May 2006. There were no issues concerning her work performance until an incident occurred on 9 August 2009. On the Sunday evening in question the claimant was working in the bar and bistro area of the respondent's hotel premises. It was very busy and the proprietor's son known as (RBJnr) who worked on the maintenance staff at the hotel called to the premises as a customer for his evening meal. He enquired from the claimant as to why the tables had not been cleaned and the claimant replied that she did not have time to discuss the matter with him then as she was very busy. The following Monday morning she met (RBJnr) in the reception area and attempted to have a discussion with him concerning the issues of the previous evening. (RBJnr) became very aggressive, abusive and shouted in her face in the presence of a customer. He told her "there is the door, you can go". She was in shock and very upset. She went home because she was so upset and could not continue to work that day. On her way home she received a phone call from a work

colleague (P) who told her that the proprietor (RBSnr) wanted her to return to work. She was in no fit state to return to work and visited her doctor who certified her as medically unfit for work for 5 days. She forwarded this medical certificate to the respondent. On the following Tuesday morning she received a phone call from (P) informing her that (RBSnr) had instructed her, (P) to send the claimant her P45. (P) told her that (RBSnr) also said “nobody walks out on me”. The claimant told the Tribunal that she received her P45 about 10 days later and understood that she was dismissed from her employment. She currently works as a waitress on a part-time basis in another hotel.

Respondent’s Case

No evidence was adduced by or on behalf of the respondent.

Determination

The Tribunal is satisfied based on the uncontested evidence of the claimant that she was unfairly dismissed from her employment within the meaning of the Unfair Dismissals Acts 1977 to 2007. Accordingly the Tribunal awards her compensation in the sum of €22,500.00 under the said Acts.

The Tribunal also awards the claimant the sum of €1153.86 being the equivalent of two weeks wages under the Minimum Notice and Terms of Employment Acts 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

