

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:  
EMPLOYEE

CASE NO.  
MN168/2010  
UD184/2010

Against

EMPLOYER  
EMPLOYER  
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: Mr E. Murray

Members: Mr D. Hegarty  
Mr J. Flavin

heard this claim at Cork on 1st February 2011 and 4th April 2011

Representation:

\_\_\_\_\_

Claimant: Mr. Edmond Smith, Independent Workers Union, 55 North Main  
Street, Cork

Respondent: Timothy J. Hegarty & Son, Solicitors, 58 South Mall, Cork

The determination of the Tribunal was as follows:-

The claimant in this case gave evidence on her own behalf. She told the Tribunal that she was on a F.A.S. course and she was placed by the organisation in the TAC, Cork where she worked as a receptionist/usher.

She had entered into a contract entitled F.A.S. FAC Agreement, which is declared to be an agreement between the FAC and SB. The document is signed by SB and by TS on behalf of the TAC.

She described how she commenced work in the TAC on or about the 15<sup>th</sup> of June. She liked the

work and was happy doing it. She was engaged in the centre until September 2009 when she was spoken to by the F.A.S. scheme coordinator who told her that her contract in respect of the work in The TAC would not be renewed and that she would be moved to another centre within the scheme.

The claimant attributed this to an incident that occurred when two members of the public came to the centre looking for the manager and through confusion on his part the ladies were not seen and they left. She believed that the manager had blamed her for this and this was the basis for what she interpreted as her dismissal.

She conceded that she was offered other postings within the scheme but declined to take these alternative postings for various personal reasons.

Evidence was given on behalf of the Respondents by MRM, supervisor of the scheme. The scheme was established under the auspices of F.A.S. by a company, FAC Limited. The company was wholly dependent on F.A.S. funding. It placed individuals registered with F.A.S. who were on the live register in part-time employment with bodies who formed part of the scheme.

The particular scheme was operated within a number of cultural outlets in Cork including the TAC. She explained that the claimant's placement in the TAC was for twelve months but that she had gotten a three-month extension and it was entirely within the discretion of the TAC as to whether they would permit any person on the scheme to remain beyond a year. She said that she wanted to reallocate the claimant to another centre within the scheme. She was confident that she would be able to do this but the claimant was resistant. She said there was no question of the claimant having been dismissed by TAC or anybody else.

From the submissions that were made it appears that the claimant was paid by F.A.S. on foot of a contract with FAC Limited and when her employment ultimately terminated it was from FAC Limited that she received her P45.

## **Determination**

Having heard the evidence and submissions the Tribunal is satisfied that the claimant was not dismissed. Furthermore, she was not employed by the TAC or by BC, the second named respondent who was merely an employee of the latter institution. The claimant was on a F.A.S. scheme and insofar as any employer is identifiable it was FAC Limited. An attempt was made to re-deploy the claimant to another centre within the scheme but the claimant declined this for personal reasons.

In the circumstances the Tribunal finds that the claimant was not unfairly dismissed or indeed dismissed at all and the claims under the Unfair Dismissals Acts, 1977 to 2007 and the Minimum Notice and Terms of Employment Acts, 1973 to 2005 fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

