

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
EMPLOYEE

*-Claimant*

CASE NO.  
UD304/2010  
MN281/2010  
WT139/2010

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: Mr N. Russell

Members: Mr J. Hennessy  
Mr F. Dorgan

heard this claim at Carlow on 6th May 2011

#### **Representation:**

Claimant: Ms Michelle Treacy, O'Flaherty & Brown, Solicitors,  
Greenville, Athy Road, Carlow

Respondent: No appearance or representation on behalf of the respondent

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

The claimant commenced employment in April 2008 as a full-time sales representative for the respondent company in one of its stores. When the claimant was working on her own in the shop mid-week she did not receive a break.

The claimant started a course in business and legal studies and reduced her hours temporarily to part-time. The claimant outlined a telephone conversation she had with the Area Manager regarding the fact that part of her course related to legal studies. The claimant requested to return to full-time hours from the time of May 2009 when her course was completed.

The claimant outlined another conversation she had with the director of the company. He attended at the store one day and met the employees individually. When he met the claimant he asked her if she ever took money from the cash register and did she ever give discount that she should not. The director said to the claimant that as she hoped to work in the legal environment she would not want something such as that "hanging over her head." After these meetings the atmosphere in the store became steadily worse and the staff received no contact from head office, which was unusual.

The claimant had a week's holidays. During that week she spoke to the manager on 1<sup>st</sup> September 2009 about hours for the following week but was told that the shop was being renovated. The claimant telephoned again the following week only to be informed that the manager no longer worked for the respondent company. The claimant telephoned the Area Manager and he informed her that the renovations were not yet complete. The claimant enquired if hours could be provided to her in one of the respondent's other stores but was told this could not be facilitated. The claimant requested a letter for social welfare purposes but this was not forthcoming.

Some six weeks later the claimant had still not received work from the respondent company and she was coming under financial pressure. The claimant saw an advertisement for a short-term position with another company and was successful in securing this position. She emailed the director of the respondent company and informed him of this and requested her P45. The claimant did not receive a reply but her P45 was posted to her.

The day after the claimant submitted her notice the store re-opened. The claimant attended at the store to return her set of shop keys and she observed that the store had not in fact been renovated.

The claimant stated that she had been left with no option but to submit her notice. She believed that the renovations were a fabrication on the part of the respondent company.

The claimant gave evidence pertaining to loss.

**Determination:**

Based on the claimant's uncontested evidence the Tribunal is satisfied that the claimant was constructively dismissed from her employment due to the conduct of the employer. The Tribunal awards the claimant the sum of €4,620 as compensation under the Unfair Dismissals Acts, 1977 to 2007.

Furthermore, the Tribunal finds that the claimant is entitled to €300.00 (being the equivalent of one week's gross pay) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

The Tribunal has jurisdiction to deal solely with holiday entitlements under the Organisation of Working Time Act, 1997. As there was no evidence adduced in relation to this matter, the claim brought under this Act must fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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