

## EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:  
EMPLOYEE

*-claimant*

CASE NO.  
MN36/2011  
WT14/2011

against

EMPLOYER

*-respondent*

under

**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 M. O'Connell B.L.

Members: Mr. D. Winston

Mr J. Flannery

heard this claim at Dublin on 1st July 2011

Representation:

Claimant: In person

Respondent: In person

### **Claimant's case:**

The Tribunal heard evidence from the claimant. She commenced working with the respondent on 02<sup>nd</sup> October 2009 as a bookkeeper. She worked 7 to 8 hours per week processing wages, PAYE, PRSI, VAT returns. She asked her employer for a contract and he told her that there was no contract; the claimant told the Tribunal that, "She never had an agreement".

The claimant told the Tribunal that she was owed wages and holiday pay totalling €619.00, some €489.00 for wages and €131.00 holiday pay. Also that she was due one week's pay in lieu of notice. She gave evidence that her hourly rate of pay was €15.00. She also told the Tribunal that her employer told her that she owed him money for "something".

### **Respondent's case:**

The respondent gave evidence to the Tribunal. He explained that he advertised for the position for four hours per week, or about a half day's work. He explained the situation at the interview. The claimant said that she would do bookkeeping and the 2006 and 2007 audits. She claimed to be a good worker. She gave him a slip with her hours and he paid her.

She did not ask him for a contract. She paid tax as she was the bookkeeper. Regarding her pay slips she gave herself her own payslip. Tax and p.r.s.i. and income levy were all deducted. Regarding €619.00 she said was due to her this was not the case. The claimant overcharged him. At one time she charged him for 23 hours work and 8 of these were for meetings with him and "there was no way she was 8 hours at meetings" with him. Regarding her minimum notice she was not entitled to it as she herself left; "she just disappeared".

### **Determination:**

The Tribunal notes that there was a conflict of evidence given by the parties.

Specifically, the Claimant says she:

- 1) sought a contract of employment on numerous occasions;
- 2) was not given any notice of termination or pay in lieu of such notice.
- 3) was not paid for one week's holidays which were due to her and that she was not paid wages for one week's work; and,

These claims were flatly denied by the Respondent. The Tribunal prefers the evidence given by the Claimant and makes the following award:

- 1) As no claim was made under the Terms of Employment (Information) Act 1994, the Tribunal can make no award arising from any failure on the part of the Respondent to provide a contract of employment to the Claimant;
- 2) €110 pursuant to Section 4(2)(a) of the Minimum Notice and Terms of Employment Act 1973 arising out of the Respondent's failure to give the Claimant one week's notice of termination;
- 3) €110 pursuant to Section 19 and Section 20 of the Organisation of Working Time Act 1997 arising out of the Respondent's failure to pay the Claimant the equivalent of one week's holiday pay. The Tribunal does not have jurisdiction to make awards under the Payment of Wages Act 1991 and so makes no award in respect of the claim for unpaid salary.

The claim under the Unfair Dismissals Acts 1973 to 1977 is statute-barred.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

Chairman



