

## EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:  
EMPLOYEE

*-claimant*

CASE NO.  
UD457/2004  
RP257/2004

Against

EMPLOYER  
Under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007 REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr D. Hayes

Members: Mr M. Carr  
Mr N. Dowling

heard this claim at Trim on 11<sup>th</sup> January 2005 and 25<sup>th</sup> May 2011

#### **Representation:**

Claimant: In Person

Respondent: XXXXXX

The claim under the Redundancy Payments Acts, 1967 to 1977 was withdrawn at the outset.

#### **Preliminary Issue**

This claim is brought under the provisions the Unfair Dismissals Acts, 1977 to 2007. It is the claimant's position that his employment ended on the 23<sup>rd</sup> of October 2003 by reason of constructive dismissal. He submitted his T1A to the Tribunal on the 21<sup>st</sup> of April 2004. The respondent's position is that the claimant's employment ended in September 2003 and that the claim is thereby out of time.

The claimant told the Tribunal that on the 5<sup>th</sup> of September 2003 he went on sick leave due to stress that he was experiencing. He told the Tribunal that he furnished the respondent with sick certificates. The respondent believes that no sick certificates were submitted. This is an issue that the Tribunal does not have to resolve for the purpose of the preliminary issue. The claimant told the Tribunal that he was not paid by the respondent after the 5<sup>th</sup> of September 2003. About three weeks later he decided that he had had enough and was not going back to work. He wrote and told the respondent this and asked for his P45. He subsequently received a letter dated the 23<sup>rd</sup> of October 2003 notifying him that he had left his employment and enclosing his P45.

The Tribunal is satisfied that the claimant's employment ended with his resignation in late September 2003. A resignation is effective of itself and does not have to await the employers

acceptance. The date of his resignation was in excess of six months before the claim was submitted to the Tribunal.

The Tribunal is not satisfied that any of the reasons advanced by the claimant to explain the delay amounts to extraordinary excusing circumstances so as to allow the time limit to be extended. In particular, the Tribunal notes that the claimant had sought the advice of his Trade Union in respect of possible remedies some six months before his resignation.

The Tribunal is satisfied that this claim is out of time. The claim under the Unfair Dismissal Acts 1977 to 2007 is hereby dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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