

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE
- *claimant*

CASE NO.
UD697/2010

against
EMPLOYER - *respondent*
under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr C. Corcoran BL

Members: Mr J. Horan
Mr. S. O'Donnell

heard this claim at Dublin on 6th July 2011

Representation:

Claimant(s) : Mr. Marcus Dowling BL instructed by:
Sheil, Solicitors, 34 Lad Lane, Dublin 2

Respondent(s) : XXXXXXXXX

The determination of the Tribunal was as follows:-

Background:

Opening submissions were made by both representatives in this case on behalf of their respective clients. The respondent's representative stated that as the nature of the respondent's business was in major banking only limited evidence could be given on their behalf in relation to this claim for unfair dismissal. The claimant's representative made an objection to this as if this was to be the case, questions he would ask in cross-examination may not be answered. A short recess was granted to the respondent's representative to take instruction on the matter.

On return the respondent's representative stated the respondent would not be going into evidence and they were conceding the fact the claimant was unfairly dismissed in this case. As this was the case only sworn evidence from the claimant was required concerning loss and the remedy sought. The representative for the respondent stated that under no circumstances was the claimant dismissed for dishonesty. The claimant's preferred remedy was re-instatement, the respondent's was compensation.

Claimant's Case:

The claimant gave evidence of loss and his preferred remedy in this matter. He was employed by the respondent as firstly a Porter and later Security Guard for the respondent from June 1999 to November 2009. He earned € 50,772 gross pay.

He applied to a number of security firms for employment but to no avail. He told the Tribunal that he had secured a security position in August 2010 on a lesser salary and in the present climate he was unsure if it would last much longer. To date he had been paid the gross sum of € 33,000.

Determination:

The Tribunal have carefully heard the evidence and submissions adduced in this case. As the respondent conceded the fact that the claimant was unfairly dismissed they must decide the remedy appropriate in this case. Three options are open to the Tribunal, this being re-instatement, re-engagement or compensation. Having carefully considered these options the Tribunal find that in all the circumstances the Tribunal find that re-instatement and re-engagement are inappropriate remedies.

Accordingly, the Tribunal awards the sum of € 68,540 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)