

## EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:  
EMPLOYEE

CASE NO.

UD60/201  
WT35/2010  
MN58/2010

against  
EMPLOYER

under

### MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 ORGANISATION OF WORKING TIME ACT, 1997 UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms P. McGrath  
Members: Mr J. Horan  
Mr C. Ryan

heard this claim at Naas on 11th April 2011

Representation:  
\_\_\_\_\_

Claimant:

P & G Stack, Solicitors, Main Street, Maynooth, Co Kildare

Respondent:

Mr. David Powderly, David Powderly, Solicitors, The Square, Kilcock, Co. Kildare

### **Background**

The Claimant had worked with the respondent for almost two years. The respondent was happy with the claimant's work and accommodated the claimant's annual visits to her home in Poland. From time to time the claimant organised a replacement cleaner when she was not available by reason of being away.

It is common case that the claimant was pregnant and informed the respondent of this fact in or around September 2009. The claimant was about two or three months pregnant, the baby being due in April 2010.

The witness for the respondent gave evidence that the claimant came to him to say that she was finding the work hard going or "too much" because of her pregnancy. The claimant was not certified unfit for work by reason of a problematic pregnancy, though the Tribunal had sight of a

medical certificate which certified a three day absence from work in November 2009.

The claimant said that she wanted to stop working and it seems that the claimant believed that she was entitled to maternity benefit.

The respondent was not in a position to know what the claimant's entitlements might be and was anxious only that the claimant would not leave immediately and might recommend a replacement for her position should she want to leave.

### **Determination**

The Tribunal has carefully considered the evidence adduced. There seemed to be a conflict in the evidence though this may have arisen out of a mistake on the claimant's part. It is accepted that the claimant resigned her job on or before the 23<sup>rd</sup> October 2009.

It seems that the claimant and her husband discovered that they may not have been entitled to maternity benefit at that time and this would have come to light when the P45 issued from the respondent employer.

There was no unfair dismissal as the claimant voluntarily left her employment. Accordingly the claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

The claimant worked out her notice period and therefore has no claim under the Minimum Notice And Terms Of Employment Acts, 1973 to 2005.

No evidence was adduced in relation to the claim under the Organisation Of Working Time Act, 1997 and therefore this claim is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

