

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

EMPLOYEE - *appellant*

CASE NO.

RP1141/2010

UD840/2010

MN801/2010

against

EMPLOYER - *respondent*

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr P. Hurley

Members: Mr T. Gill
Mr T. Brady

heard this claim at Tullamore on 29th June 2011

Representation:

Claimant(s) : Mr. Blazej Nowak, Polish Consultancy Enterprise, 107 Amiens
Street, Dublin 1

Respondent(s) : In Person

Preliminary Point

The claims under the Unfair Dismissals Acts 1977 to 2007 and the Minimum Notice and Terms of Employment Acts 1973 to 2005 were withdrawn by the appellant's representative at the commencement of the hearing.

Summary of Evidence

The appellant commenced employment with the respondent in August 2006. There were no issues with his work performance and in October 2009 he visited his native country on the understanding that he would be returning to his work position in January 2010. He normally visited his native country over the Christmas period each previous year and returned to work for the respondent. His

visit to his native country in October 2009 was somewhat earlier than normal but was with the agreement of the respondent as work had become slack. He was due to return to Ireland on 19 January 2010 but was contacted by the respondent one week prior to this date. The respondent informed him that work was still slack and that he (the respondent) was not in a position to offer him work until February 2010. As a result of this conversation the appellant changed his flight date and returned to Ireland in or around 10 February 2010. He told the Tribunal that the respondent did not offer him work in February 2010 and kept postponing his return to work date. The appellant was not satisfied with this and requested his P45 as he wanted to claim Social Welfare assistance. The Tribunal heard evidence from the respondent that he offered work to the claimant in or around 18 February 2010 at a specific location. The respondent stated that this work was of a permanent status. The appellant declined this offer of work and accordingly the respondent hired another employee on 1 March 2010. He furnished the appellant with his P45 when requested to do so by the appellant.

Determination

The Tribunal carefully considered the evidence adduced by both parties. The appellant did not establish to the Tribunal that he was dismissed by reason of redundancy and the Tribunal is not satisfied that a genuine redundancy situation existed. Therefore the claim under the Redundancy Payments Acts 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

