

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:

CASE NO.  
MN732/2010

EMPLOYEE - *claimant*

UD780/2010

against

EMPLOYER - *respondent*

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. P. O'Leary B L

Members: Mr. A. O'Mara  
Mr J. Jordan

heard this claim at Dublin on 7th July 2011

Representation:

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Claimant(s) : In Person

Respondent(s) : Mr. Tom Jordan, Jordan Consultants, 3 Brookside Terrace,  
Dundrum Road, Dublin 14

**Summary of Evidence**

Mr.(TJ) for the respondent company told the Tribunal that the company operated 3 retail stores within the Dublin Airport complex. As a result of construction work involving the building of terminal 2 the company was forced to close one of it's stores for a period of 14 months. This situation along with the general economic downturn resulted in the company having to reduce it's labour costs for commercial reasons. The company reduced it's workforce from 25 to 17 and the claimant's employment was terminated on 17 November 2009. The claimant's work performance had been entirely satisfactory during her employment and the respondent company had no issues with her in that regard. The Tribunal heard further evidence that 3 employees with less service than the claimant were retained in employment following the termination of the claimant's employment. One of these employees had worked for the company for a number of years previously and was re-hired after the claimant commenced employment and the other two employees worked on a

part-time basis.

The claimant gave direct evidence that she commenced working for the respondent company in June 2008. She worked approximately 30 hours per week and enjoyed a good working relationship with the respondent company. On 3 November 2009 she was unfit for work and provided a medical certificate to the company to this effect. She returned to work on 10 November 2009 and was given notice by way of a letter dated 5 November 2009 that her employment would be terminating on 17 November 2009. She enquired as to why her employment was being terminated but did not receive any response. She would have been willing to work with less hours but no such offer was made to her. She gave further evidence that she had longer service than 3 other employees whose services were retained by the respondent company. She accepted that she had received her minimum notice entitlements. She was unemployed for approximately one year and secured full time employment with another employer in November 2010.

### **Determination**

The Tribunal carefully considered the evidence adduced by both parties. The selection process used by the respondent in this matter did not accord with any known procedures. The claimant's employment was terminated by purporting to give her notice but failing to furnish her with the letter of notice at her address on the date of the notice. The Tribunal also noted that when she asked why she was being dismissed she was not given an answer and also that other employees who entered the employment later than the claimant were retained while she was dismissed. In the circumstances the Tribunal determines that the claimant was unfairly dismissed and that the most appropriate remedy is compensation. The Tribunal awards the claimant the sum of €11,000.00 under the unfair Dismissals Acts 1977 to 2007.

The claimant accepts that her minimum notice entitlement had been paid and therefore the claim under the Minimum Notice and Terms of Employment Acts 1973 to 2005 is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

