

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE - *Appellant*

UD1009/2010

against the recommendation of the Rights Commissioner in the case of:

EMPLOYER - *Respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms P. McGrath

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

heard this appeal at Dublin on 14th October 2011

Representation:

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Appellant(s): In Person

Respondent(s) :Ms. Mairead Crosby, IBEC, Confederation House, 84/86 Lower  
Baggot Street, Dublin 2

### **Preliminary Issue**

The appellant was employed from 28<sup>th</sup> July 2008 until her employment was terminated on 23<sup>rd</sup> July 2009 with one week's notice to expire on 30<sup>th</sup> July 2009. She lodged her complaint, which was received by the Employment Appeals Tribunal on 29<sup>th</sup> July 2009 and forwarded to the Rights Commissioner. The notice period expired on 30<sup>th</sup> July 2009 while the application was lodged on 29<sup>th</sup> July 2009. Section 8 (2) (a) provides that a claim for redress shall be submitted in writing within the period of six months beginning on the date of the dismissal. The date of dismissal in this case is 30<sup>th</sup> July 2009.

### **Determination**

This case came before the Tribunal by way of an employee appealing against the recommendation of a Rights Commissioner under the Unfair Dismissals Acts, 1977 – 2007. Ref. R-082620 – UD-09/RG.

The Tribunal has carefully considered the matters which have come before it on appeal from the Rights Commissioner and by way of a new T1A received on the 9<sup>th</sup> April 2010 and sent directly to the Tribunal.

On the 6<sup>th</sup> April 2010 the Rights Commissioner refused to hear the claim being brought by the claimant under the Unfair Dismissals legislation. This happened in circumstances where the required notice in writing bringing a claim for redress under the Acts was lodged prematurely having been lodged one day before the date of the relevant dismissal where the date of dismissal was at the end of one week of notice given to the claimant and not the date on which the claimant was told that she was going to be dismissed.

The claimant has appealed this decision by way of T1B issued the 9<sup>th</sup> April 2010. In circumstances where this claim is not abandoned, the Tribunal is obliged to deal with the appeal of the Rights Commissioners findings and having considered the interpretation of the relevant sections the Tribunal has to affirm the findings of the Rights Commissioner as being a correct interpretation of the law. Consequently the Tribunal does not have jurisdiction to hear these proceedings.

Having made a decision on appeal from the Rights Commissioner unfortunately, the Tribunal cannot now treat those new proceedings initiated by the T1A which issued in April 2010 (some eight months post-termination) as de novo proceedings. This would be tantamount to forum shopping and allow the claimant bring the same claim before two different bodies.

The Tribunal therefore has no jurisdiction to deal with these proceedings either.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

