

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO:
UD237/2010
MN222/2010

- claimant

against

EMPLOYER

- respondent

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Lucey

Members: Mr. W. O'Carroll
Ms. S. Kelly

heard this appeal in Limerick on 23 September 2011

Representation:

Claimant: Dundon Callanan, Solicitors, 17, The Crescent, Limerick.

Respondent: Not Present or Represented

The decision of the Tribunal was as follows:

Background:

The claimant was employed with the respondent as a childcare worker since September 2005, the last four years as Manager. The claimant commenced maternity leave in January 2009 and was due to return to work in August 2009. In February 2009 she received a call from a colleague (MK) informing her that she, MK, was buying the crèche. She asked was her job secure as Manager and was informed it was and her wages would remain the same.

On June 18th 2009 she met with MK at the claimant's request. The claimant had heard from other staff about changes being made and she was concerned about her position. She was informed that on her return to work it would be as Manager but her rate of pay would reduce from € 14.42 per hour to € 8.65. This pay cut was

not agreed. She was informed that this was what the other staff would receive and if she did not like it she knew where the door was. She took a claim under the Payment of Wages Act, 1991 to the Rights Commissioner and was successful, but still awaiting payment of the award. The claimant told the Tribunal that she received two warnings and a final written warning, which she did not accept.

On November 12th 2009 she wrote to MK concerning her five grievances. She did not receive any reply. The claimant's solicitor then contacted MK on December 1st 2009 informing her that as the claimant had not received a response to her letter she had no alternative but to consider herself constructively dismissed.

Determination:

Having heard the uncontested evidence adduced by the claimant the Tribunal finds that the claimant was dismissed by reason of constructive dismissal. The Tribunal awards the sum of € 28,399.32, this being her actual loss, under the Unfair Dismissals Acts, 1977 to 2007.

The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 was withdrawn.

Sealed with the seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)