

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE - Claimant

UD962/2010  
MN915/2010

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 M. O'Connell B.L.  
Members: Mr M. Carr  
Mr F. Barry

heard this claim at Dublin on 21st September 2011

Representation:

Claimant(s): Mr Emmet Butler, Butler Monk, Solicitors, DMG Business  
Centre, 12 Camden Row, Dublin 8

Respondent(s) : No appearance by or on behalf of respondent

The Tribunal is satisfied that both parties were properly notified of the hearing.

#### **Preliminary Point:**

The claimant's representative withdrew the application under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 during the course of the hearing.

#### **Claimant's Case:**

The claimant gave evidence of commencing employment with the respondent company in August 2003. The business operated as a contract cleaning company with contracts in a number of five star hotels. The claimant was employed as an Accommodation Manager with responsibility for supervising the cleaning of bedrooms and bars.

In her role as the Accommodation Manager of a five star hotel the claimant stated that she performed her work in a professional manner. She was sexually harassed and bullied by a

member of the hotel management (not an employee of the respondent company). She reported the matter to the respondent company. The General Manager of the hotel investigated her complaint of harassment and bullying and the sexual harassment claim was upheld. During the period of the investigation she was assigned to general office duties such as filing while the investigation was conducted. She stated that she made a number of suggestions and offers to work in other hotels or other positions including as a cleaner during that time. She was never told there was no other work for her and turned up for work each day. The claimant stated that she never had any issues or difficulties with her employer and there were no issues with her work performance. She stated that when she made suggestions about returning to her role she was told on a number of occasions by MB, Director of respondent company that “things are not going too good” and “the way things have gone”. It was not clear if MB was making reference to the financial situation of the company or the sexual harassment and bullying case.

In response to questions from the Tribunal the claimant stated she had received no notice of dismissal in writing and no reference to a right of appeal. On the 2<sup>nd</sup> November 2009 AC was told by MB that she was being made redundant and given no reason. She told the Tribunal that she could not believe what she was hearing as the respondent had never indicated any problem or issues with her work and she believed that she was dismissed because of the sexual harassment and bullying case that she had reported.

Having been unemployed for approximately 3 months in March 2010 she returned to part time employment and in April 2011 was made permanent. She earns €407 net per week.

**Determination:**

The Tribunal examined the documentary evidence as well as sworn oral evidence given by the claimant. This evidence, which was not contested on behalf of the respondent, supported her contention that she was dismissed from her employment without any proper reason. The notice of dismissal was not committed to paper and there was no right of appeal available to her. In the circumstance the Tribunal deems the dismissal to be unfair.

The Tribunal notes the claimant sought to mitigate her loss and she has returned to employment. However, the Tribunal notes that she has sustained significant income loss arising from the dismissal and awards the sum of €53,600 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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