

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE - **claimant**

UD1206/2010

against

EMPLOYER -**respondent**

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mrs. M. Quinlan

Members: Mr. J. Goulding  
Mr. J. Flannery

heard this claim at Dublin on 27 October 2011

Representation:

Claimant:

Mr. Paul Henry, SIPTU, 6<sup>th</sup> Floor,  
Liberty Hall, Dublin 1

Respondent:

Ms. Patricia Heavey, Patrick F. O'Reilly & Co. Solicitors,  
9-10 South Great George's Street, Dublin 2

The determination of the Tribunal was as follows:

#### **Determination**

A preliminary issue arose in this case whereby there was a dispute between the parties as to the date on which the claim was lodged with the Rights Commissioner service (the service). The claimant was dismissed on 26 May 2009 and his claim form for the service was signed by the claimant on 13 November 2009. It was the claimant's position that the form was lodged with the service the following day. The respondent's position is that the form lodged with the service refers to an attachment and that attachment appears to be an email from the claimant to his representative dated 8 December 2009. Their position is further that the claim was then lodged with the service on 14

December 2009 and on the original form, which was opened to the Tribunal, it was possible to see a faint date stamp showing the date of lodgement as 14 December 2009.

It was submitted on behalf of the respondent that, as the claim had been lodged outside the period of six months beginning on the date of dismissal, then the Tribunal did not have jurisdiction to hear the claim in circumstances where no evidence had been adduced to show any exceptional circumstance preventing lodgement of the claim within the extended period of twelve months from the date of dismissal as provided under section 8 (2) (b) of the Unfair Dismissals Acts.

The Tribunal, being satisfied that the date of lodgement of the claim with the service was 14 December 2009 and that exceptional circumstance did not exist, finds that there is no jurisdiction to hear the claim under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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