

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
EMPLOYEE -*claimant*

CASE NO.  
UD1312/2010

against

EMPLOYER- *respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr C. Corcoran B.L.

Members: Mr M. Noone  
Mr N. Dowling

heard this claim at Dublin on 18th October 2011

Representation:

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Claimant(s) :

Respondent(s) :

#### **Respondent's Case**

The respondent's owner (JB) gave evidence that he operates a hairdressing business for the past 9 years. He hired the claimant in August 2008 as a trainee hairdresser on a full-time basis. He had no issues with the claimant up until January 2009 but the claimant had a series of absences from work post January 2009 which led to her being given two warnings. In May 2009 the claimant requested that her working conditions be changed to a part-time basis. He facilitated the claimant with this request and employed her on a three day week basis from May 2009 until 18 December 2009. He had no further issues with the claimant until 18 December 2009. On that day the salon was very busy as it was approaching the Christmas period. At approximately 2.30pm the claimant was in the kitchen area of the respondent's premises. She informed the witness that she was exhausted and going home as she had not been given a break since reporting for work at 9 am that morning. The witness gave evidence that the claimant had already taken two breaks earlier that day. He tried to persuade the claimant to remain at work but she left the workplace. He tried to make contact with her on Saturday 19 December 2009 but the claimant did not answer her phone. He again tried unsuccessfully to make contact with the claimant on Monday 21 December 2009.

Later, on Monday 21 December 2009 he received a letter from the claimant by post stating that she was tendering her resignation due to intolerable conditions and harassment imposed on her. He

responded to that letter on 23 December 2009 informing her that he was amazed at the contents of her letter of 21 December as the claimant had never made any complaint about the intolerable conditions and harassment either formally or informally. He told the Tribunal that he had never harassed the claimant at any time. He denied that the claimant did not receive her breaks during her period of employment and had no difficulty in allowing the claimant time off work to attend jury service. He facilitated all employees regarding the taking of breaks. Some employees wanted fixed breaks and some wanted flexi breaks and he facilitated that. He denied that he demanded a letter of resignation from the claimant.

### **Claimant's Case**

The claimant gave evidence that she commenced working for the respondent on a part-time basis in January 2008. She was hired on a full-time basis from August 2008 but reverted to working on a part-time basis from June 2009. She received a verbal warning in April 2009 but denied that she ever received a final warning. In March 2009 she was requested to attend for jury service and informed her employer accordingly. (JB) was unhappy at this position stating that she should have told him earlier and he would have got her excused from jury service. This absence on jury service was recorded as an absence from work on a list provided to her by (JB) when she received her warning in April 2009.

On 18 December 2009 she reported for work at 9am. She continued working without a break until approximately 2.30pm. At that point she went to the kitchen area to have her lunch. She was then called back to the salon floor to carry out some other duties. She refused to do so stating to (JB) that she had not had a break since reporting for work at 9am. She left the workplace at that point as she was told that she could not have her break. (JB) told her that if she did not like it "there is the door". (JB) contacted her on the following day, Saturday 19 December 2009. He said that she would have to supply him with a letter of resignation if she wanted her outstanding wages. She normally received her wages on Saturday evenings. She did not want to resign from her job and would not have supplied the letter of resignation if her wages had not been withheld. She posted her letter of resignation on Monday 21 December 2009.

### **Determination**

Based on the evidence the Tribunal finds that the claimant was unfairly dismissed and awards compensation in the sum of €3,000.00 under the Unfair Dismissals Acts 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

