

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

EMPLOYEE

*- claimant*

CASE NO.

RP2840/2009

UD2452/2009

MN2296/2009

WT1053/2009

against

EMPLOYER

*- respondent*

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
ORGANISATION OF WORKING TIME ACT, 1997  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007  
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr D. Hayes BL

Members: Mr D. Peakin  
Mr N. Dowling

heard this claim at Dublin on 10th March 2011

### **Representation:**

Claimant(s) : Mr Richard Grogan, Richard Grogan & Associates, Solicitors,  
16 & 17 College Green, Dublin 2

Respondent(s) :

The determination of the Tribunal was as follows:-

At the outset the claim under the Organisation of Working Time Act, 1997 was withdrawn.

### **Background:**

The claimant stated he was employed as an operative in the respondent's landscape gardening business. After time the claimant's rate of pay was reduced by €1 per hour. Around September 11<sup>th</sup> 2009 he was asked to take a week off. On his return to work he was informed there was no job for him.

The respondent stated that he had to reduce his employees' rate of pay in January 2009 due to the

downturn in work. In August 2009 the claimant arrived at the office and asked for a pay rise to €14 per hour. The respondent did not want to lose him and offered €12 per hour. In mid September the claimant arrived ranting and raving as to why he was not being paid €14 per hour and said he would leave. He stormed out and this was the last he saw of him.

**Determination:**

The Tribunal is satisfied that the respondent was obliged to seek a reduction in wages paid and that this was agreed by the employees. The respondent was engaged in the landscaping business and was a casualty of the downturn in construction. The Tribunal is satisfied that the claimant sought a significant increase in pay and that the respondent sought to agree a compromise increase. The proposed increase was not, in the end, acceptable to the claimant. The Tribunal is satisfied that the claimant voluntarily left his employment and that he was not dismissed. Accordingly the claim under the Unfair Dismissals Acts, 1977 to 2007 fails. The claims under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 and the Redundancy Payments Acts, 1967 to 2007 also fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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