

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE – *claimant*

CASE NO.
UD638/2012

for implementation of the recommendation of the Rights Commissioner in the case of:

EMPLOYEE – *claimant*
V
EMPLOYER – *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N O'Carroll-Kelly BL

Members: Mr A O'Mara
Mr O Nulty

heard this claim at Drogheda on 20th November 2012

Representation:

Claimant(s):

Respondent(s):

This case came before the Tribunal by way of an employee seeking to implement a recommendation of a Rights Commissioner under the Unfair Dismissals Acts, 1977 to 2007, ref: r-083750-ud-09/EH.

The determination of the Tribunal was as follows:-

The respondent's representative contended that the application for implementation of the recommendation of the Rights Commissioner was not properly before the Tribunal as the claimant had entered an appeal, later withdrew that appeal and then applied for implementation. The representative put forward that in the event that the Tribunal found that the implementation was properly before it the Tribunal should order that it be implemented under the terms set out by the Rights Commissioner in a letter dated 3 June 2010 which defined the conditions of the claimant's re-engagement.

The claimant's representative submitted that neither party appealed the Rights Commissioner's

recommendation within 6 weeks of receipt. The employer requested further details on there-engagement awarded by the Rights Commissioner. On foot of this letter the claimantsubmitted an appeal. He later withdrew this appeal on receipt of the advice that this appeal wasnot in time. The claimant then applied to implement the Rights Commissioner's recommendation. The claimant's representative sought to have the claimant re-engaged on hisprevious terms and conditions.

Determination:

The Tribunal finds that the implementation is properly before it. The Tribunal is satisfied that the recommendation has not been carried out by the employer/respondent in accordance with its terms or at all and it is further satisfied that the prescribed six-week time limit for bringing an appeal against the recommendation has expired and no such appeal has been brought. Accordingly, the Tribunal makes a determination to like effect as the Rights Commissioner's recommendation that the respondent re-engage the claimant. The re-engagement should be inaccordance with the terms set out by the Rights Commissioner in his letter of 3 June 2010which stated that:

1. The rate of pay should be at General Operative level.
2. The claimant should be placed on a night shift in the industrial team. If no night shift position is available at present then the claimant should accept the day shift until such time as a night shift becomes available.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)