

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE - *claimant*

UD1496/2010

WT617/2010

against

EMPLOYER - *respondent*

under

### ORGANISATION OF WORKING TIME ACT, 1997 UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr E. Handley  
Mr J. Jordan

heard this claim at Dublin on 16th December 2011

Representation:

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Claimant(s) : Mr Damian Reilly, McKeever Rowan, Solicitors, 5  
Harbourmaster Place, IFSC, Dublin 1

Respondent(s) : In Person (Director of respondent)

### Respondent's Case

Witness for the respondent (JB) gave evidence that the claimant was made redundant 3 months before the respondent ceased trading. The business ceased trading as the company had experienced a 50% decline in business. They were evicted from their trading premises by the landlord and all employees lost their jobs when the business ceased trading.

### Claimant's Case

The claimant gave evidence that he worked for the respondent company since 2004. The claimant terminated his employment with the respondent in 2006 and recommenced employment with the respondent in October 2008. He was employed as a chef. He was absent on certified sick leave for two weeks in February 2010 and had furnished his employer with a medical certificate to this

effect. During this period of absence on sick leave he was contacted by a representative of the respondent and informed that he was being made redundant with immediate effect. This was the first occasion he had been told about being made redundant. He was not offered any alternative work, the possibility of a wage cut or a reduction in hours. The company employed 6 chefs and he was the only person made redundant. He had longer service than two chefs both of whom were retained in employment following his dismissal. The company had also hired a head chef two weeks prior to his redundancy and hired a further chef after his dismissal.

### **Determination**

The Tribunal is satisfied after hearing the evidence of both parties that the claimant was unfairly selected for redundancy and awards the claimant the sum of €21,000.00 under the Unfair Dismissals Acts 1977 to 2007.

The claim under the Organisation of Working Time Act 1997 is dismissed as the Tribunal does not have jurisdiction to hear evidence in relation to rest intervals.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

