

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:

CASE NO.

EMPLOYEE – *claimant*

UD1179/2010  
WT491/2010

against

EMPLOYER – *respondent*

under

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

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. P. McGrath BL

Members: Mr. B. Kealy  
Ms. M. Maher

heard this claim in Dublin on 24<sup>th</sup> October 2011

Representation:

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Claimant: Ms Audrey Coen BL instructed by Ms Edel Golden, John O'Leary & Co,  
Solicitors, Millennium House, Main Street, Tallaght, Dublin 24

Respondent: In Person

**Determination**

The Tribunal has carefully considered the evidence adduced. The claimant comes before the Tribunal claiming that she was constructively dismissed. To succeed in this matter the claimant must demonstrate that she could not reasonably be expected to continue in the workplace.

The claimant worked in the respondent for a period of eighteen months. The claimant described a resilience to the general cut and thrust of what appears to have been a robust workplace. It seems common case that Mr. O'G the claimant's immediate manager was a person of voluble opinion and strong views. The workplace atmosphere described by the claimant seems to have been filled with tension created by Mr. O'G. To some extent, it seems

that the claimant mostly avoided most of Mr. O’G’s ire but she was in the middle of a difficult office position. The relationship with M. O’G was fraught because, in the main, his management style was lacking especially in the area of human resource management.

The respondent company was represented by a Mr. B a Company Director, and overall self-described General Manager of the company. Mr. B was not in a position to affirm or deny the difficulties expressed and described by the claimant. He was not made aware of any on-going difficulties that the claimant was having within the workplace. For reasons best known only to herself the claimant did not formally invoke the grievance process in relation to Mr. O’G.

However, the Tribunal cannot overlook the fact that Mr. B clearly knew or ought to have known that Mr. O’G had a certain form within the workplace and in this regard that a previously heard Unfair Dismissal case 1398/2005 was opened to the Tribunal. Mr. B confirmed that he was aware of this case which had involved Mr O’G’s treatment of an ex-employee. Mr. B opened no evidence to support that Mr. O’G had been up-skilled in the field of human resource management nor did he offer evidence to suggest that administration or office staff were encouraged to come to him in the event that they were experiencing difficulties with their line management.

The only evidence opened up by the claimant was that she did telephone Mr. B on the day that she walked out of the workplace on foot of a row she had with Mr. O’G. She explained that she was leaving the workplace and Mr. B responded that he didn’t realise things were that bad and that he’d look into it.

The Tribunal finds that Mr. B therefore became aware of the constructive dismissal and was given the opportunity to at least try and intervene and offer some sort of approach towards a solution. Instead of getting involved Mr. B indicated twice in evidence that he simply forgot about the claimant’s sudden and reactionary resignation. On the other hand, the tribunal does recognise that the claimant has been professionally trained and could not but have known she had an entitlement to invoke the grievance process and notified Mr. B of the difficulties she was experiencing with her line manager Mr. O’G.

Whilst the Tribunal finds in favour of the claimant in finding that she was constructively dismissed, the Tribunal must recognise that the claimant did not do everything she should have done to notify the senior management of the situation. Therefore the Tribunal awards the claimant €12,500.00 under the Unfair Dismissals Acts 1977 to 2007.

As no evidence was adduced, the claim under the Organisation of Working Time Act, 1997 is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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