

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE -
Claimant

UD1298/2010, RP1755/2010
MN1251/2010, WT533/2010

against

EMPLOYER-Respondent

Under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J. Lucey

Members: Mr. W. O'Carroll
Mr F. Dorgan

heard this claim at Ennis on 29th November 2011

Representation:

Claimant : Mr Shane Healy, Healy O'Connor, Solicitors, Quay House,
Fitton Street, Off South Mall, Cork

Respondent : Mr Christopher Barry, OHB Consulting Limited, 26 Barrington Street, Limerick
Mr. Declan McDonald, Pricewaterhousecoopers, One Spencer Dock,
North Wall Quay, Dublin 1

The determination of the Tribunal was as follows:

At the outset of this hearing an application on behalf of the respondent to postpone the hearing was refused. The appeal under the Organisation of Working Time Act, 1997 was also withdrawn.

The Tribunal is satisfied that the respondent was properly notified of this hearing. The respondent did not appear for the hearing but representatives on its behalf attended.

Claimant's Case

From late August 2001 up to June 2009 the claimant was working as a porter with the respondent. From that time up to the end of that year he was employed on a three-day/night week basis. From 1 January 2010 he was the only employee not to be rostered at all. Efforts by the claimant and others to address that situation were unsuccessful. By May 2010 contact was made between the claimant's solicitors and the respondent. He did not resume employment with the respondent.

Respondent's Case

No evidence adduced

Determination

Having considered the uncontested evidence of the claimant the Tribunal finds that his employment ceased with the respondent by way of redundancy. Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2007 is allowed and the appellant is awarded a statutory lump sum under those Acts, and based on the following:

Date of Birth: 10 November 1970
Date of Commencement: 29 August 2001
Date of Termination: 15 May 2010
Non-Reckonable Service: 1 January to 15 May 2010
Gross Weekly Wage: €461.33

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 succeeds and the appellant is awarded €1845.32 as compensation under those Acts.

The claim under the Unfair Dismissals Acts, 1977 to 2005 must fall, as a termination of employment by redundancy is not an unfair dismissal.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

