

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE -*claimant*

MN1585/2010

UD1657/2010

WT711/2010

against

EMPLOYER - *respondent*

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Mr D. Moore
Mr M. O'Reilly

heard this claim at Dublin on 3rd January 2012

Representation:

Claimant(s) :

Respondent(s) : Ms. Ciara Bradshaw BL instructed by Amorys, Solicitors, Suite 6, The Mall, Beacon Court, Sandyford, Dublin 18

The claims under the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Organisation of Working Time Act 1997 were withdrawn by the claimant's representative at the commencement of the hearing.

Preliminary Point

The claim under the Unfair Dismissals Act was received by the Tribunal on 2 July 2010. The claimant told the Tribunal that her employment with the respondent terminated on 8 July 2009. The respondent disputed this date and stated that the date of termination of employment was 3 July 2009. The claim was lodged outside of the 6 months time limit prescribed under the Act, and the issue is whether the time might be extended under section 8 (2) of the Act, quoted below.

The claimant who is a Polish national gave evidence that within 3 days of the termination of her employment she sought information as to her rights from the National Employment Rights Authority. She found the information misleading and stated that she was told that it would be difficult to do anything about it as she had left her employment. She then concentrated on seeking alternative employment. She subsequently spoke with some friends and contacted the National Employment Rights Authority some ten months later and found the information that she received on that occasion to be more helpful and fruitful. At this stage she lodged her claim form with the Tribunal.

Determination

Section 8 (2) of the Unfair Dismissals Act 1977 provides:

“A claim for redress under this Act shall be initiated by giving a notice in writing (containing such particulars (if any) as may be specified in regulations under section 17 of this Act made for the purposes of subsection (8) of this section) to a rights commissioner or the Tribunal, as the case may be—

(a) within the period of 6 months beginning on the date of the relevant dismissal, or

(b) if the Rights Commissioner or the Tribunal, as the case may be, is satisfied that exceptional circumstances prevented the giving of the notice within the period aforesaid, then, within such period not exceeding 12 months from the date aforesaid as the rights commissioner or the Tribunal, as the case may be, considers reasonable,

and a copy of the notice shall be given by the rights commissioner or the Tribunal, as the case may be, to the employer concerned as soon as may be after the receipt of the notice by the rights commissioner or the Tribunal.”

The Tribunal finds that the information given to the claimant was not misleading and determines that the claimant has not satisfied the Tribunal that “exceptional circumstances” existed which “prevented her” from bringing the claim within the 6 months time limit prescribed under the Act. Accordingly the Tribunal finds that it does not have jurisdiction to hear the claim under the Unfair Dismissals Acts 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

