

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE – *claimant*

UD1883/2010

against

EMPLOYER – *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. O. Madden B.L.

Members: Mr. W. Power
Mr. S. O'Donnell

heard this claim in Dublin on 2nd February 2012

Representation:

Claimant: Mr. Conor Bowman BL instructed by Mr. Ciarán O'Mara, O'Mara Geraghty McCourt, Solicitors, 51 Northumberland Road, Dublin 4

Respondent(s): Ms Helen Callanan BL instructed by Ms. Michelle Ni Longáin, Byrne Wallace, Solicitors, 2 Grand Canal Square, Dublin 2

The determination of the Tribunal was as follows:-

Preliminary Point

The claim under the Unfair Dismissals Act was received by the Tribunal on the 9th August 2010. The Respondent's representative told the Tribunal that the claimant's employment with the respondent terminated on the 25th September 2010. She went on to say that under Section 8(2) of the Unfair Dismissals Act 1977, a claim for redress shall be initiated within the period of 6 months beginning on the date of the relevant dismissal and that the claimant was now out of time to lodge a new T1A.

The claimant's representative stated the letter of dismissal makes it quite clear that the claimant was dismissed on the 18th June 2010 and that she was not allowed to attend work from the 3rd June 2010. The claimant wished to amend the T1A to that of constructive dismissal.

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 is refusing to amend the T1A to that of constructive dismissal and accepts the submissions made by the respondent’s representative.

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)