

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE – claimant

UD640/2010

against

MN585/2010

EMPLOYER

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Lucey

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

heard this claim in Limerick on 25th November 2011

Representation:

Claimant: Ms. Michelle O'Riordan, Holmes O'Malley Sexton, Solicitors,
Bishopsgate, Henry Street, Limerick

Respondent(s): No appearance by or on behalf of the respondent

The Tribunal is satisfied that the respondent was properly notified of the hearing. Neither the respondent nor a representative on its behalf attended the hearing.

Claimants Case:

The claimant started working in the respondent's hotel in January 2008 as a Night Porter. A few months later a former member of staff came back to work with the respondent and was given some of the claimant's hours. As a result he had to work in the bar to make up for the hours lost. The claimant said at that time his hours were all over the place.

The claimant enjoyed working in the bar and meeting the different hotel guests. A new bar

manager started working about seven months after he joined. The claimant lodged a health and safety grievance with management regarding a ripped floor in the bar area. He met with the owner and his personnel assistant, and the floor was fixed and things improved. The claimant said the bar manager held something against him for making the complaint to management.

In June 2009 the claimant wrote to management regarding the bar manager coming into the hotel in the early hours of the morning to watch him and the bullying he was receiving from some of the builders in the hotel and said he may have to take this further.

In August the claimant came in to start his shift. He went to get the stock keys from the usual place but they weren't there. He went upstairs and was told by the bar manager he was to attend a meeting, there were a number of complaints against him over the weekend. He went to the meeting with the bar manager and the personnel assistant and was told he was overcharging customers. They told him they were not happy and that he was dismissed. He was given no notice of the meeting and no chance to appeal the decision. He was also barred from the hotel.

Determination:

There was no evidence given to show the respondent had a contract of employment in place. The Tribunal in considering this claim has considered the principles and procedures that could reasonably be expected to apply to the claimant's employment and, having considered and applied same, is of the opinion that the respondent employer fell short in meeting its obligations to act fairly in its dealings with the claimant

Considering these factors the Tribunal is satisfied based on the uncontested evidence of the appellant that he was unfairly dismissed and awards him compensation in the sum of €10,000.00.

Loss having been established, the Tribunal awards the sum of €400.00, this being one weeks' gross pay, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)