

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE

CASE NO.
UD670/2010
MN631/2010

against

EMPLOYER
under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K. T.O'Mahony BL

Members: Mr. G. Andrews
Mr. A. Kelly

heard this case in Nenagh on 9 September 2011

Representation:

Claimant(s)

Mr. W. O'Brien BL instructed by
O'Meara & Company, Solicitors,
Clare Street, Nenagh, Co. Tipperary

Respondent(s) :

Ms. Caitriona McDermott instructed by
Mr. Brian McEnery, Horwath Bastow Charleton, Horwath House,
The Red Church, Henry Street, Limerick

The determination of the Tribunal was as follows:-

It was alleged that the claimant, a security guard who had commenced employment with the respondent on 11 September 2008, had been unfairly dismissed without notice. It was alleged that he had not been given any reason for his dismissal. The date on his P45 was stated to have been 15 November 2009 and his gross weekly pay was submitted to have been €425.84.

Although the onus is on a respondent employer to justify a dismissal the liquidator's representative who attended the hearing stated that the liquidator had not been able to obtain the company's books or records. The date of liquidation of the company was stated to have been 11

October 2010.

Determination:

Under the Unfair Dismissals Acts a dismissal is deemed to be unfair unless an employer can show substantial grounds to justify that dismissal. In this case the respondent was unable to adduce any evidence to discharge that onus. Accordingly, the dismissal in this case is deemed to be unfair and the claim succeeds. In the circumstances of this case the Tribunal deems it just and equitable to award the claimant compensation under the Unfair Dismissals Acts, 1977 to 2007 (in respect of the period from the expiry of his dismissal's notice period to the date of liquidation when his employment would have ended) in the amount of €19,673.81 (this amount being equivalent to 46.2 weeks' gross pay at €425.84 per week).

The Tribunal awards the claimant the sum of €425.84 (this amount being equivalent to one week's 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)

