

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

- appellant

UD851/10

against the recommendation of the Rights Commissioner in the case of:

EMPLOYER

- respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. McGrath BL

Members: Mr C. Lucey
Mr M. O'Reilly

heard this appeal at Naas on 17th January 2012.

Representation:

Appellant: Ms Julienne Paye, Richard Grogan & Associates, Solicitors, 16 & 17 College Green, Dublin 2

Respondent: No appearance by or on behalf of the respondent

The determination of the Tribunal was as follows:-

This case came before the Tribunal as a result of an appeal by an employee (the appellant) against the recommendation of the Rights Commissioner under the Unfair Dismissals Acts, 1977 to 2007 (ref. r-079398-ud-09/JC)

Determination:

The respondent was not present and having been satisfied that the respondent was on notice, the Tribunal was happy to proceed.

A termination is deemed unfair unless it is demonstrated that the respondent has acted reasonably. The respondent was not present to show reasonableness. The appellant was given his P45 after a protracted period of short time employment. The appellant states this

came as a surprise to him though he accepts that his employer did not have sufficient mechanical work for him to keep him on in a full time capacity. The appellant gave evidence that he could no longer perform his extensive driver's duties as he had been involved in a road traffic accident in early November 2008.

In finding that the appellant was unfairly dismissed, the Tribunal must take into account that the appellant's loss must be calculated having regard to the limited availability of suitable work available to him from December 2008.

The Tribunal upsets the recommendation of the Rights Commissioner and awards the appellant €5,200.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)