

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

EMPLOYEE

CASE NO.

MN1619/2010

WT739/2010

against

EMPLOYER

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. G. Hanlon

Members: Mr. M. Carr
Mr. J. Moore

heard this claim in Drogheda on 19 January 2012

Representation:

Claimant(s):
Mr. John King, SIPTU,
North-East Branch, Connolly Hall,
Palace Street, Drogheda, Co. Louth

Respondent(s):
No legal representation

The decision of the Tribunal was as follows:-

Giving sworn testimony, the claimant stated that his employment began on 21 September 2009 but that his employment ended on 10 March 2010 because there was no more work. He said that, when he was at home on 10 March 2010, he was told to stay at home. He stated that he had got no notice, that he had not had any disciplinary issue with the

respondent and that there were about three days' holidays due to him.

The respondent's position was that the respondent did not lay off employees by phone-call, that there was work in Dublin until the 14th (of April 2010) and that the claimant had left of his own accord (with all holidays paid) on 10 March 2010.

The claimant said that he had not known if there was still any work on 10 March but that he had been told on one day not to come in the next day. He said that a foreman (SG) had rung him telling him not to come in and that he (the claimant) was finished.

The claimant's representative submitted that the claimant had been laid off by phone-call and that (although he did not have the service to claim unfair dismissal or redundancy) a determination was sought for minimum notice and outstanding holidays.

A respondent director (hereafter referred to as DM) stated that the respondent had been in operation for more than a decade and that, though employees came and went, the respondent gave notice and paid for all holidays due. DM said that a foreman would not do hiring and firing as he (DM) did that. DM stated that a foreman would not be entitled to lay off or hire people.

Asked if he wanted to give evidence, DM replied that there had been any amount of work, that the respondent had not been laying people off and that the claimant had left of his own accord.

At this point in the hearing the claimant said that a foreman (SG) had given him the job but that he (the claimant) had then been laid off by a phone-call. DM then acknowledged that SG did come to DM making a recommendation for hiring.

DM stated that the respondent would have meetings, that one foreman could have a lot of men and that no-one was being laid off at the time in question as the respondent had plenty of work.

Determination:

Having carefully considered the conflicting positions of employer and employee, the Tribunal allowing the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, awards the claimant the sum of €564.82 (this amount being equivalent to one week's gross pay) under the said legislation.

Regarding the claim for unpaid holidays, the respondent said that it always paid holidays but no evidence was furnished to show that the claimant's holiday entitlements had been paid in full. Allowing the claim under the Organisation of Working Time Act, 1997, the Tribunal awards the claimant the sum of €338.89 (this amount being equivalent to 0.6

weeks' gross pay at €564.82 per week) under the said legislation.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

