

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

EMPLOYEE

UD1351/2010

MN1305/2010

against
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. L. Ó Catháin
Members: Mr. P. Casey
Mr. O. Wills

heard this claim at Cork on 27th September 2011 and 29th November 2011

Representation:

Claimant:

Ms. Niamh Quirke, Quirke, Solicitors, Waterside, Ashe Quay, Fermoy, Co Cork

Respondent:

Matheson Ormsby Prentice, Solicitors, 70 Sir John Rogerson's Quay, Dublin 2

Preliminary issue:

A preliminary issue arose as to whether the Tribunal had jurisdiction to hear the claim under the Unfair Dismissals Acts, 1977 to 2007. The respondent contended that the claim was not lodged within six months of termination of employment and therefore the Tribunal had no jurisdiction to hear such a claim.

However, the claimant held that there were exceptional circumstances, which prevented her from lodging her claim within the time limit and sought an extension of this time limit under section 8(2) of the 1977 Act as amended by Section 7(2)(b) of the 1993 Act. The claimant gave evidence that during the 6 months following her dismissal she was unable to lodge a claim due to her psychological difficulties.

The General Practitioner, whom the claimant attended, gave evidence as to the physical and mental wellbeing of the claimant since her dismissal.

Determination:

The claimant's employment with the respondent was terminated on 14th December 2009 and she lodged a claim for unfair dismissal with the Tribunal on 24th May 2010. Having carefully considered the evidence adduced, the Tribunal finds that there were not exceptional circumstances preventing the claimant from lodging a claim within the time limit specified in the Acts, ie. six months from date of termination of employment. Therefore the Tribunal declines jurisdiction to hear the claim under the Unfair Dismissals Acts, 1977 to 2007.

It was common case that the claimant was paid notice at least equivalent to her statutory entitlement and therefore the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)