

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD1635/2010, MN1557/2010

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 B.L.

Members: Mr D. Hegarty
Ms H. Kelleher

heard this claim at Cork on 1st February 2012

Representation:

Claimant: Kieran McCarthy & Co, Solicitors, Floor 3B, 6 Lapps Quay, Cork

Respondent : No representation listed

The determination of the Tribunal was as follows:

The Tribunal is satisfied that the respondent was properly notified of this hearing.
The respondent or a representative on its behalf did not appear for this hearing.

The claimant commenced employment with the respondent on 6 April 2009. He was dismissed on 15 March 2010. The claimant contended that since he was paid on a monthly basis he was entitled to a month's notice of the termination of his employment, which when added to his actual service would bring him over the one year's service requirement and the Tribunal would have jurisdiction to hear his claim under the Unfair Dismissals Acts.

Determination.

The effect of section 2 (1) (a) of the Unfair Dismissals Acts, 1977 to 2007 is that a (former) employee, not coming within a category of the statutory exceptions, must have one year's continuous employment with his former employer, on the date of his dismissal. The claimant does not come within any of the statutory exceptions.

Section 1 of the Unfair Dismissals Act 1977 defines "date of dismissal" as the date on which the notice, to which an employee is entitled, would have expired if the notice had been given.

The claimant's contract of employment provides for the same periods of notice as those stipulated in section 4 (2) of the Minimum Notice and Terms of Employment Acts, 1973 to 2005. Having, over 13 weeks' but less than two years' service at the time of his dismissal the claimant is entitled to one week's notice. Having been dismissed on 15 March 2010, adding on one week will not bring the claimant up to having one year's service. Accordingly, the Tribunal does not have jurisdiction to hear the claim under the Unfair Dismissals Acts, 1977 to 2007.

In a letter dated 15 March 2010 the respondent's stores operations manager informed the claimant that his employment was terminated with effect from that date. Consequently, the Tribunal awards the claimant €961.54 under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 as compensation for a week's notice.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

