

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE
WT895/2010

- claimant

UD2018/2010

Against

EMPLOYER

- respondent

under

**ORGANISATION OF WORKING TIME ACT, 1997
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr C. Corcoran B.L.

Members: Mr M. Noone
Mr J. Flannery

heard this claim at Dublin on 27th February 2012.

Representation:

Claimant: Mr. Michael Hegarty, Smyth O'Brien Hegarty, Solicitors, 24 Lower Abbey Street, Dublin 1

Respondent : No appearance by or on behalf of the respondent

The determination of the Tribunal was as follows:-

At the outset of the hearing the claim under the Organisation of Working Time Act, 1997 was withdrawn.

Claimant's Case:

The respondent is a licenced premises. The claimant worked as a Bar Manager. He commenced work on 9th March 2009.

On 30th July 2010 KM asked him to attend a meeting. He was told that his position was being made redundant due to a serious decline in business in the hospitality sector. A letter of even date confirmed this decision. His employment ceased that day. He was completely shocked at this decision and given a guarantee that no one else would be replacing him in that position. No other options such as a pay cut or working shorter hours were offered to him. He was not

permitted to work out his notice but instead was paid in lieu of notice. The business continued trading and his position has subsequently been filled.

The claimant had held a responsible position. Three weeks prior to 30th July 2010 management met the claimant and asked him to go through all the details of his job beginning with opening up the premises. They contended that they needed to have a record of his job in the event of him being absent on sick leave.

He secured a very favourable reference from the respondent which stated that he was a highly regarded member of staff, had an excellent work ethic, was dependable, hardworking, trustworthy and reliable and had an exemplary attendance record.

As the claimant held a taxi licence he secured work as a taxi driver in September 2010.

Respondent's Case:

No evidence adduced.

Determination:

The Tribunal is satisfied that the respondent was properly notified of the hearing. Neither the respondent nor a representative on their behalf appeared at the hearing.

Based on the claimant's uncontested evidence the Tribunal is satisfied that the claimant was unfairly selected for redundancy and was therefore unfairly dismissed and awards him €18,000.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
CHAIRMAN)