

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:  
EMPLOYEE

CASE NO.  
UD1738/2010, MN1686/2010  
WT774/2010

against

EMPLOYER  
Under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007**  
**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 J. Lucey

Members: Ms M. Sweeney  
Mr D. McEvoy

heard this claim at Tralee on 5th March 2012

### **Representation:**

Claimant : Mr John Kane, SIPTU, Branch Secretary, Conroy Hall, Shannon, Co. Clare

Respondent :

The determination of the Tribunal was as follows:

### **Claimant's Case**

The claimant commenced employment as a cleaner with the respondent in April 2008. She worked on a part time basis performing her duties on a three-day week basis. On 15 February in the course of her work at one of the respondent's client companies it was alleged that she attempted to commit an act contrary to the respondent and client interests. As a result of that reported incident the client did not want her to enter the premises again and the respondent placed her on suspension without pay.

Acting on legal advice the claimant approached her trade union and an official there instigated communication with the respondent on her behalf. Apart from one email over the following months there was no other response from the respondent.

### **Respondent's Case**

An employee from the human resource section told the Tribunal that a client notified the respondent that the claimant was seen acting improperly on its premises. Neither this witness nor anyone else from the respondent contacted the accuser to investigate that report. No explanation was offered as to why the respondent did not fully respond or adequately address the claimant's case.

### **Determination**

Not only did the respondent not engage with this case prior to the claimant's cessation of employment it also produced scant evidence to the Tribunal. Having considered the circumstances of the case the Tribunal finds that the respondent dismissed the claimant and that this dismissal was unfair under the Unfair Dismissals Acts, 1997 to 2007. Accordingly, she is awarded €1516.00 as compensation under those Acts.

The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 succeeds and the appellant is awarded €50.00 under those Acts.

The appeal under the Organisation of Working Time Act, 1997 was withdrawn during this hearing.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

