

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE - **Claimant**

UD2447/2010

RP3310/2010

MN2398/2010

against

EMPLOYER - **Respondent**

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1967 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. O'Connell BL

Members: Ms J. Winters
Mr S. O'Donnell

heard this claim at Dublin on 25 April 2012

Representation:

Claimant:

Ms Grainne Duggan BL, instructed by Ms Maureen Donoghue,
Anderson & Gallagher Solicitors, 29 Westmoreland Street, Dublin 2

Respondents:

No appearance by or representation on behalf of the respondent

The determination of the Tribunal was as follows:

Determination:

The Respondent in this case went into liquidation on 16 August, 2011. While there was no appearance by or on its behalf at the hearing, the Liquidator consented to the hearing proceeding in his absence.

The Claimant, a driver with the Respondent, gave evidence of a number of road traffic accidents in which he had been involved in the course of his work. He also gave evidence of differences arising from his decision to take annual leave in May 2010 allegedly without proper authorisation. By all accounts, he was on temporary lay-off from May 2010 until July 2010 when he was dismissed from his employment.

In cases such as these, the onus is on the Respondent to discharge the burden of proof in order to show that the dismissal was fair and reasonable. There being no appearance on behalf of the Respondent, this burden could not be discharged. Therefore, the dismissal is presumed to be unfair.

The Claimant also gave evidence that he had sought employment since his dismissal in order to mitigate his loss although he produced no evidence of this.

On his own oral evidence and on written evidence submitted on his behalf, the Tribunal believes it is fair to conclude that he contributed significantly to the circumstances surrounding his dismissal. Accordingly, the Tribunal makes an award of €4,000 under the Unfair Dismissals Acts, 1977 to 2007.

The claims under both the Redundancy Payments Acts, 1967 to 2007 and the Minimum Notice and Terms of Employment Acts, 1967 to 2005 were withdrawn at the outset.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)