

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM OF:  
EMPLOYEE

CASE NO.

UD2 400/2010

RP3231/2010  
MN2336/2010

Against

EMPLOYER

EMPLOYER

Under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007**  
**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005**  
**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr M. O'Connell B.L.

Members: Mr F. Cunneen  
Mr G. Whyte

heard this claim at Dublin on 20th April 2012

Representation:

\_\_\_\_\_

Claimant: Ms. Mary Duffy-King, SIPTU, Misc Unit, Liberty Hall, Dublin 1

Respondent: Not present or represented

**Claimant's case**

The Tribunal heard that the claimant worked 40 hours per week for the respondent as a manager from June of 2007. He worked for €290 per week and received no payslips or P60's.

The respondent requested that he take a pay cut in August of 2010. The claimant refused as he was already receiving below minimum wage and was duly dismissed.

## **Determination**

As there was no appearance by or on behalf of the respondent the Tribunal based on the uncontested evidence of the claimant accepts that the claimant was constructively dismissed. The Tribunal accepts that it was reasonable for the claimant to stop working for the respondent in circumstances where he was being forced to reduce his salary from a level already below minimum wage. The proposed new salary was approximately 25% less than his existing salary. The Tribunal also notes that he returned to full time employment within 8 weeks of the termination of his employment with the respondent and his new salary was at a level equivalent or above the National Minimum Wage.

Had the respondent been in compliance with his statutory obligations the minimum weekly pay for the claimant would have been €346 per week. On that basis the Tribunal awards the sum of €2768.00 being equivalent to 8 weeks wages under the Unfair Dismissals Acts 1997 to 2007 and the sum €692.00 under the Minimum Notice and Terms of Employment Acts 1973 to 2005.

Claims under the Unfair Dismissals Acts, 1977 to 2007 and the Redundancy Payments Acts, 1967 to 2007 are mutually exclusive. As the claim under the Unfair Dismissals Acts, 1977 to 2007 succeeds, the claim under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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