

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

EMPLOYEE - *claimant*

Against

EMPLOYER - *respondent*

under

CASE NO.

UD2115/2010

WT940/2010

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

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J. Fahy  
Members: Mr. W. O'Carroll  
Mr M. McGarry

heard this claim at Galway on 25th April 2012

Representation:

\_\_\_\_\_

Claimant(s) : Mr Patrick M Keane, Keane, Solicitors, Hardiman House, Eyre Square, Galway

Respondent(s) : Ms Anne Byrne, IBEC, Confederation House, 84/86 Lower Baggot Street,  
Dublin 2

#### **Preliminary Issue**

The respondents contention was that the claim is not properly before the Tribunal in accordance with section 8 (2) of the Unfair Dismissals Act 1977 as amended and therefore has no jurisdiction to hear the claim.

The Tribunal heard that the claimant's employment ceased on the 30 October 2009 and the appeal was lodged with the Tribunal on the 24 September 2010.

The claimant's representative told the Tribunal that the appeal was lodged late due to an oversight by a solicitor who had left his practice and the necessary documents were not lodged on time. The circumstances were exceptional and were through no fault of the claimant himself.

#### **Determination**

The Tribunal considered all of the arguments on both sides and are satisfied that the claim was lodged outside the statutory time limit. Although the Tribunal accepts that the claimant was not

at fault and the circumstances are out of the ordinary it is not considered exceptional circumstances.

The Tribunal finds that it does not have jurisdiction to hear the claim having found that exceptional circumstances did not exist.

No evidence was heard in the appeal under the Organisation of Working Time Act, 1997

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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