

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE - *Claimant*

UD1556/2010

MN1486/2010

Against

EMPLOYER - *Respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly BL

Members: Mr M. Carr
Mr O. Nulty

heard this claim at Mullingar on 26th January 2012

Representation:

Claimant(s) : PC Moore & Company, Solicitors, 17 South Great George's Street, Dublin 2

Respondent(s) : In person

Determination

AM a director of the respondent company told the Tribunal that on the 8th May 2010 he and the claimant had an argument. AM said that both he and the claimant argued previously but always resolved matters afterwards. Although they were both annoyed the claimant was not sacked. Arguments were a regular occurrence. He told the Tribunal there were no previous disciplinary matters involving the claimant and that he was an excellent chef and he was very happy with his work. That day when the claimant got his stuff and walked out he was of the opinion the matter would be resolved. He told the Tribunal that at that time staff numbers were falling. They had gone from employing seven chefs to two full time chefs. He accepted that he should have contacted the claimant the following day. AM in concluding his evidence said he regretted the way things finished and disappointed with the manner in which he conducted himself.

The claimant told the Tribunal that on the day of dismissal he was extremely busy and indicated to AM that he wanted a meeting with his father PM (also a director of the respondent company). AM was annoyed with the request to meet his father and used abusive language

towards me. He told me to get out of his hotel and made no effort to get me back. The claimant told the Tribunal that AM on the day of the argument said that he was the highest paid employee and in response the claimant accepted he may be the highest paid employee but was not a slave. He said he was under no illusion when leaving the hotel that he was dismissed. The claimant accepted that he also used colourful language on the day and no reasonable discussion took place.

The claimant's wife also an employee of the respondent company gave evidence of hearing the shouting in the kitchen on the day of the dismissal. She told the Tribunal she heard AM telling the claimant to get out of my hotel. She said that the claimant walked away from AM and indicated to her that he had to get away from AM.

Determination

The Tribunal heard evidence from the claimant which was not contested. The respondent accepted that after a heated argument he told the claimant to get out – you are sacked. That was corroborated by the claimant's wife in her evidence to the Tribunal. Whether the respondent actually meant to terminate the claimants employment by speaking those words is not clear however his reaction following the dispute lead the Tribunal to conclude that the termination was intended.

The claimant has to be commended for finding employment within eight weeks of his dismissal all be it at a lower rate of remuneration. In the circumstances the Tribunal award €19,000.00 under the Unfair Dismissals Acts, 1977 to 2007. The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 succeed and the Tribunal award the claimant €1,538.46.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)