

## EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:  
EMPLOYEE  
*-claimant*

CASE NO.  
UD1809/2010

against  
EMPLOYER  
*-respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr P. Hurley

Members: Mr G. Andrews  
Ms S. Kelly

heard this claim at Limerick on 19th June 2012

#### **Representation:**

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Claimant: Ms Ann Garry, 4 Cloonbeg, Shanballa, Lahinch Road, Ennis, Co Clare

Respondent: Mr. Chris O'Donovan, Ibec Mid-West, Gardner House, Bank Place,  
Charlotte Quay, Limerick

#### **Preliminary Issue**

The claimant was dismissed from her employment effective from the 16<sup>th</sup> of September 2009. The claim under the Unfair Dismissals Acts, 1977 to 2007 was lodged with the Tribunal on the 26<sup>th</sup> of July 2010 which is outside of the 6-month time limit as prescribed in the Act.

Extensive submissions were made as to the circumstances which prevented the claimant from lodging her claim within the time limit. In essence, there was an ongoing Bullying & Harassment case before the Rights Commissioner, the decision of which issued in February 2009. The claimant's representative appealed the Rights Commissioner's decision to the wrong forum and, on discovering this the time limit for taking the appeal to the Labour Court had expired. As the only option apparently left open to the claimant a claim was lodged with the Tribunal.

The respondent also made extensive submissions as to why the Tribunal do not have jurisdiction to hear this claim. The respondent contends that, as there was never the intention to take a claim to the Employment Appeals Tribunal no exceptional circumstances can exist to prevent the lodging of such a claim.

**Determination**

Having heard submissions from both parties and reviewed the documentation provided, the Tribunal find that there are no exceptional circumstances that prevented the claimant from lodging her claim within the time limit as prescribed in the Act.

The Tribunal does not have jurisdiction to hear this case, the claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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