

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
EMPLOYEE -*Claimant*

CASE NO.  
UD2253/2010  
MN2204/2010  
WT1005/2010

against

EMPLOYER -*Respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly B.L.

Members: Mr C. McHugh  
Mr N. Dowling

heard this claim at Dublin on 30th March 2012

#### **Representation:**

Claimant: In person

Respondent: In person

#### **The determination of the Tribunal was as follows:**

The respondent operates a hairdressing business. The claimant was employed from the time of February 1999. The employment was uneventful until the latter part of 2010.

It was the respondent's evidence that due to a downturn in business she was forced to inform staff at a meeting in August 2010 that their hours were being reduced from September 2010. In the latter years of her employment the claimant had covered the annual leave of other employees. Prior to this it had not suited the claimant as she had a young son.

During September 2010, the respondent had asked the claimant to cover some annual leave in October and the claimant had agreed. This meant the claimant would be working three Saturdays in addition to her usual hours on Tuesday, Wednesday and Friday. However, on the 6<sup>th</sup> October 2010 the claimant approached the respondent and informed her that she would no longer be covering annual leave as she did not want to jeopardise her social welfare payments.

The respondent subsequently made enquiries from the social welfare office and she reverted to the claimant with the information she had obtained on the 12<sup>th</sup> October 2010 but the claimant continued to refuse to cover annual leave. The respondent presented the claimant with a letter dated 12<sup>th</sup> October 2010 which stated, that if the claimant was unwilling to work extra hours as was custom and practice then the respondent had no option but to dismiss the claimant.

The respondent confirmed that at the time the business did not have grievance or disciplinary procedures in place but such procedures have since been implemented.

It was the claimant's evidence that the respondent first asked her on Wednesday, 6<sup>th</sup> October 2010 to work on Saturday, 9<sup>th</sup> October 2010. When the claimant told the respondent that she was unable to work because of her son, the respondent began to shout and scream. The claimant left work very upset and was anxious about returning to work on Friday.

When she attended for work on Friday 8<sup>th</sup> October 2010 the respondent did not speak to her and there was a bad atmosphere throughout the day. The claimant attended for work on Tuesday, 12<sup>th</sup> October 2010. The respondent arrived as the claimant was about to leave and handed the claimant the letter of the 12<sup>th</sup> October 2010 and told her that she was dismissed.

The claimant accepted that she was paid all relevant holiday pay to the end of her employment. The claimant secured new employment three weeks later but suffers an on-going loss of €36 per week.

**Determination:**

Due to a complete absence of procedures the Tribunal finds that the claimant was unfairly dismissed. The Tribunal awards the claimant compensation in the sum of €1,000 under the Unfair Dismissals Acts, 1977 to 2007, given her success in finding alternative employment almost immediately. The Tribunal also finds that the claimant is entitled to the sum of €1,060.02 (being the equivalent of six weeks gross pay) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

The Tribunal dismisses the claim under the Organisation of Working Time Act, 1997 as the claimant accepted that she was paid her holiday pay entitlements.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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