

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

EMPLOYEE

- claimant

CASE NO.

RP800/2011

UD579/2011

MN616/2011

WT228/2011

Against

EMPLOYER - respondent

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr G. Hanlon

Members: Mr F. Moloney
Mr F. Barry

heard this claim at Dublin on 30th April 2012.

Representation:

Claimant: Ms Sinead Curtis BL, instructed by Lorraine Gillick, Solicitors, Unit 11,
Riverside Business Centre, Tinahely, Co Wicklow

Respondent: No appearance by or on behalf of the respondent

The determination of the Tribunal was as follows:-

At the outset of the hearing the claims under the Redundancy Payments Acts, 1967 to 2007, the Minimum Notice and Terms of Employment Acts, 1973 to 2005 and the Organisation of Working Time Act, 1997 were withdrawn.

Claimant's Case:

The claimant commenced employment in September 2005 and was employed as a security officer. His hours of work were from 10 pm to 4 am Monday to Thursday. He often worked some extra shifts. Initially he was paid in cash and towards the end of 2008 he was paid by

cheque. In 2010 his hours of work were halved.

The claimant went on holidays for two weeks in October 2010. On his return he telephoned his Manager enquiring about his rostered hours of work. He was advised at that time that there was no work for him but would receive a call in the following few days to let him know if there was work available for him.

On 20th October 2010 the claimant received a text message telling him there was no further work available for him and that another employee J was taking over his role. The claimant contended that J did not have a PRA licence.

The claimant subsequently contacted the Accountant who was surprised to hear that he had been let go from his employment. The claimant asked for his P45.

The claimant had no prior notification from the respondent that his job was risk. He was not offered redundancy. He never had any issues at work, was always punctual and worked overtime when required to do so.

Since the termination of his employment he was in receipt of a Job Seekers allowance until January 2012 when he opened up a gym. He has taken no remuneration from the new business to date.

Respondent's Case:

No evidence was adduced as there was no appearance by the respondent.

Determination:

The Tribunal is satisfied that the respondent was duly notified of the hearing. Neither the respondent nor a representative on their behalf appeared at the hearing.

The Tribunal carefully considered the evidence adduced. The claimant believed that he was dismissed on 20th October 2010 when he received a text message from the respondent indicating that there was no further work available for him. No proper procedure was used to effect the dismissal.

Based on the claimant's uncontested evidence, the Tribunal finds that he was unfairly dismissed from his employment and his claim under the Unfair Dismissals Acts, 1977 to 2007 succeeds.

The Tribunal awards the claimant €28,000.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)