

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE - *claimant*

UD1291/2010
MN1245/2010

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. K.T O'Mahony B.L.

Members: Mr. P. Casey
Mr. O. Wills

heard this claim in Tralee on 19th April 2012

Representation:

Claimant:

Respondent(s): Mr. Chris O'Donovan, IBEC, Regional Director's Office,
Gardner House, Charlotte Quay, Limerick

Preliminary Issue

The respondent contended that the Tribunal did not have jurisdiction to hear the claim under the Unfair Dismissals Acts, 1977 to 2007 as the claimant, who commenced employment on 2nd February 2009 did not have one year's continuous employment at the time of her dismissal on 15th January 2010 as required by section 2(1)(f) of the 1977 Act.

The claimant was told on the 18th December 2009, fifteen minutes before she finished her duties, that she was being given four weeks' notice of the termination of her employment. The business closed for Christmas the day the claimant was made redundant.

Determination on the Preliminary Issue

The effect of section 2(1)(a) of the Unfair Dismissals Acts, 1977 to 2007 is that, statutory exceptions apart, an employee must have one year's service in the employment to bring a claim under the Unfair Dismissals Acts. The claimant does not come within the statutory exceptions. Thus, as the claimant, who commenced employment on 2nd February 2009, does not have the requisite one year's service in the employment, the Tribunal does not have jurisdiction to hear the claim under the Unfair Dismissals Act 1977 to 2007.

As the claimant had over 13 weeks' but less than 2 years' service she is entitled, under section 4 (2) (a) of the Minimum Notice and Terms of Employment Acts, 1973 to 2005 to one week's notice of the termination of her employment. As the claimant received four weeks' notice of the termination of her employment her claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 is dismissed.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)