

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
MN503/2010
WT700/2011
UD565/2010

Against

EMPLOYER
and

EMPLOYER

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr S. Mahon

Members: Mr P. Pierson
Mr O. Nulty

heard this claim at Longford on 3rd June 2011 and 20th September 2011 and 16th January 2012

Representation:

Claimant: Ms Michelle Dolan, Groarke & Partners, Solicitors, 32/33 Main Street, Longford

Respondent: No appearance by or on behalf of the respondent

There was no appearance by or on behalf of the respondent and the Tribunal is satisfied that they were properly notified of the hearings.

Claimant's case:

The claimant DJ was employed as head chef on a gross weekly wage of €700 from June 2007. For weeks before his dismissal he felt he was being put under pressure to leave. DJ got a text from the owner on 23rd December 2009 wishing him the best of luck and informing him that a new chef was employed from 27th December. DJ rang the owner to ask what was going on and told him he was not leaving his job. He continued to work until Christmas Eve. The owner refused to meet with DJ or have any dealings with him. DJ went to work as normal after

the Christmas break and was asked to leave the premises by the owner and told he no longer worked there. A new chef (and friend of the owner) was working in the kitchen. The claimant was told that the guards would be called if he refused to leave the building.

DJ's last pay cheque from his employer was a personal one. It contained no notice pay or any outstanding holiday pay.

Determination

Having considered the uncontested evidence of the claimant the Tribunal is satisfied that the claimant was unfairly dismissed and awards him €19,000.00 under the Unfair Dismissals Acts, 1977 to 2007.

The Tribunal is satisfied from the evidence adduced that the claimant was not paid in lieu of notice. Consequently, the Tribunal awards the sum of €1,400 this being two weeks gross wages, under the Minimum Notice and Terms of Employments Acts, 1973 to 2005.

The Tribunal is satisfied that there is holiday pay owing to the claimant and awards an amount of €749.69 under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

