

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

EMPLOYEE - **Claimant**

UD2431/2010

MN2368/2010

WT1068/2010

against

EMPLOYER - **Respondent**

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J. Fahy BL

Members: Mr B. O'Carroll
Ms H. Henry

heard these claims at Galway on 9 July 2012

Representation:

Claimant:

Ms Dawn Carney, Sheehan & Co. Solicitors,
Augustine Court, St. Augustine Street, Galway

Respondent:

No appearance by or representation on behalf of the respondent

The determination of the Tribunal was as follows:

Determination:

The Respondent in this case went into liquidation on 27 May 2012. While there was no appearance by or on its behalf at the hearing, the Liquidator consented to the hearing proceeding in his absence.

In cases such as these, the onus is on the Respondent to discharge the burden of proof in order to show that the dismissal was fair and reasonable. There being no appearance on behalf of the Respondent, this burden could not be discharged. Therefore, the dismissal is presumed to be unfair.

Based on the documentary evidence adduced by the claimant the Tribunal is satisfied that her normal weekly pay was €563-35. After considering the evidence of mitigation of loss the Tribunal awards €7,000-00 as being just and equitable under the Unfair Dismissals Acts, 1977 to 2007.

The Tribunal further awards €1,126-70, being two weeks' pay, under the Minimum Notice and Terms of Employment Acts, 1967 to 2005.

The evidence having shown that the claimant received her entitlement of annual leave, the claim under the Organisation of Working Time Act, 1997 must fail.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)