

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIMS OF:

CASE NO.

EMPLOYEE

UD2426/2010

MN2361/2010

RP3257/2010

against

EMPLOYER

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007  
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. E. Murray

Members: Mr. P. Casey

Mr. J. Flavin

heard this claim at Cork on 17th May 2012

Representation:

Claimant:

Mr Killian O'Mullane, Murphy English & Co, Solicitors,  
Sunville, Cork Road, Carrigaline, Co Cork

Respondent:

Mr. John Boylan, McNulty Boylan & Partners, Solicitors,  
Clarks Bridge House, Hanover Street, Cork

**Background**

At the outset the claimant withdrew his claim under the Redundancy Payments Acts 1967 to 2007.

The claim under the Unfair Dismissals Acts arises from the dismissal of the Claimant by the Respondent company on the 30<sup>th</sup> of October 2010. Evidence was given by the Managing Director of the Respondent company and by the Claimant. It was admitted on behalf of the Respondent company that the Claimant was summarily dismissed because of a complaint made by the Claimant to the Health & Safety Authority. The Managing Director acknowledged that they had a sense of betrayal and decided to terminate the Claimant's

employment when they discovered that he had made this complaint.

The Claimant told the Tribunal that he had certain concerns about the manner in which the transportation of certain hazardous cargo was documented by the company. After making a number of approaches to the company he then made an anonymous complaint to the Health & Safety Authority. He acknowledged that he understood that his identity would not be made known to his employer.

### **Determination**

Section 27 (3) (b) of the Safety Health & Welfare at Work Act 2005 provides that an employer shall not penalise or threaten penalisation against an employee for making a complaint or representation to his or her Safety Representative or employer or the Authority, as regards any matter relating to safety, health and welfare at work.

Section 27 (4) provides the dismissal of an employee shall be deemed for the purposes of the Unfair Dismissal Acts 1997 to 2001 to be an unfair dismissal if it results wholly or mainly from penalisation as referred to in subsection 2 (a).

It is not disputed by the Respondent that the Claimant was dismissed solely because of his complaint to the Health & Safety Authority and consequently the Claimant is entitled to succeed in his claim for unfair dismissal.

Having considered the matter the Tribunal are of the view that compensation is the appropriate remedy in respect of the claim under the Unfair Dismissal Acts, 1977 to 2007 and makes an award of €35,000.00. In addition the Tribunal awards the Claimant the sum of €1,050.00, being two weeks pay, in respect of his claim under the Minimum Notice and Terms of Employment Acts,

The Tribunal makes a total award in this case in the sum of €36,050.00.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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