

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD1976/2010, MN394/2012
WT162/2012

against

EMPLOYER

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K. T. O'Mahony B.L.
Members: Mr G. Andrews
Mr J. Flavin

heard this claim at Tralee on 24th May 2012

Representation:

Claimant : In person

Respondent : Mr. Dan O'Connor, Terence F Casey & Co, Solicitors,
99 College Street, Killarney, Co Kerry

The determination of the Tribunal was as follows:

The Tribunal is satisfied that the respondent was properly notified of the hearing on 24th May 2012. Neither the respondent nor a representative on its behalf appeared for the hearing.

Claimant's Case

The claimant commenced employment with respondent in July 2006. Prior to March 2010 she had never been subjected to any disciplinary sanction. During that month and while absent from work on medical certificates her employer issued her with a P45. No explanation from the respondent was forthcoming for this action by the respondent. The company did not make any further contact with the claimant. The claimant considered her to have been dismissed. She became fit for work in January 2011 and had received some part-time work.

Determination

Based on the uncontroverted evidence of the claimant the Tribunal finds that the claimant was dismissed. As the respondent failed to appear and discharge the onus of proof that rests on it under s.6 (6) of the Unfair Dismissal Acts the Tribunal, in applying s.6 (1) of the Acts, deems the dismissal to be unfair. Accordingly, the claim under the Acts, 1977 to 2007 succeeds. Having heard evidence of loss the Tribunal awards the claimant €25,900 as compensation under the Unfair Dismissals Acts, 1977 to 2007.

The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 also succeeds and the appellant is awarded €700.00, being the equivalent of 2 weeks' pay in lieu of notice under these Acts.

The appeal under the Organisation of Working Time Act, 1997 is allowed and the appellant is awarded €140.00 in respect of two bank holidays under the Act.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)