

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE
- *Claimant*

CASE NO.
UD363/2011

Against

EMPLOYER
- *Respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Mr C. McHugh
Mr C. Ryan

heard this claim at Naas on 26th June 2012

Representation:

Claimant: Mr. Brendan Archbold, 12 Alden Drive, Sutton, Dublin 13

Respondent: Ms. Catherine Day, Peninsula Business Services (Ireland) Limited, Unit 3,
Ground Floor, Block S, East Point Business Park, Dublin 3

The determination of the Tribunal was as follows:-

The claimant commenced working for the respondent company in February 2008 as a sales assistant. The claimant requested a copy of her contract of employment in or around the end of 2009. On viewing this document she became aware that the signature on her contract was forged. The claimant lodged a complaint with the Rights Commissioner Service under the Terms of Employment (Information) Act 1994 to 2001. During the Rights Commissioner hearing in August 2010 the respondent confirmed that the claimant's signature had been forged and the claimant became aware that PH, her area manager, had carried out the forgery.

As a result of this information the claimant felt that she could no longer work with PH because she could not trust him. For this reason the claimant began to look for another job. PH left the respondent company in September 2010. The claimant resigned from the respondent company in October 2010 when she obtained work with a new employer. The claimant informed CK, her manager, that she was resigning because she had found another job and gave him two weeks

notice. He asked her to submit her resignation in writing. He received the claimant's written resignation but it did not state that the forged document was her reason for leaving the respondent company.

CK carried out an exit interview with the claimant and during this interview she filled in a form stating that she was leaving the company due to insufficient pay and other reasons. CK enquired about the other reasons and she said that she would rather not discuss them because they were prior to his commencement with the company.

Determination

Based on the evidence of the claimant and the respondent at the hearing the Tribunal finds that the claimant was aware of the forged document from 2009. She did not become aware of who forged her signature until the Rights Commissioner hearing in 2010. The person who committed the forgery, PH, had left the respondent company before the claimant resigned.

There appears to have been a good relationship between the respondent and the claimant up until the termination of her employment. The respondent facilitated the claimant's training with her new employer insofar as providing flexibility with her hours of work.

The claim for constructive dismissal under the Unfair Dismissals Acts 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)