

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:
EMPLOYEE
–Appellant

CASE NO.
UD322/2010
MN300/2010

against

EMPLOYER
–Respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms O. Madden BL

Members: Mr J. Browne
Ms S. Kelly

heard these claims at Portlaoise on 10 April
and 24 July 2012

Representation:

Claimant:

Mr Stephen O’Sullivan BL instructed by Mr Noel Sheridan,
Sheridan Quinn Solicitors, 29 Upper Mount Street, Dublin 2
On the first day, no appearance by or representation on behalf
Of the claimant on the second day

Respondent:

REP

The determination of the Tribunal was as follows: -

Determination

On the first day of hearing a preliminary issue arose in regard to whether exceptional circumstance had prevented the claimant from lodging his claim under the Unfair Dismissals Acts within the prescribed period of six months from the date of dismissal so as to allow the Tribunal to hear such claim within twelve months of the date of dismissal as provided in section 8 (2) (b) of those Acts.

Evidence was heard on this issue on the first day. At the conclusion of the first day’s hearing the Tribunal issued a subpoena to call evidence from a solicitor who had been consulted by the claimant in the period following his dismissal. That solicitor attended the second day of hearing.

On 18 July 2012 the Tribunal received a letter from the solicitors who represented the claimant on the first day of hearing to state that, as there had been no contact between them and the claimant since the first day of hearing, they considered that they no longer had instructions to act in the matter and accordingly would not be in attendance at the second day of hearing. The letter advised that the claimant had been advised of this by both email and registered post on 25 June 2012.

At around 09-45am on the morning of the second day of hearing the Tribunal office received a telephone call, apparently from the claimant's brother, to advise that the claimant would not be in attendance at the Tribunal because of medical reasons.

Following an application on behalf of the respondent the Tribunal found that, in the absence of medical evidence or any appearance by or on behalf of the claimant, the claims under the Unfair Dismissals Acts, 1977 to 2007 and the Minimum Notice and Terms of Employment Acts, 1973 to 2005 both fail for want of prosecution.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)