

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:
EMPLOYEE

-claimant

CASE NO.
UD1152/2010
MN1118/2010
WT481/2010

against
EMPLOYER *-respondent*
EMPLOYER *-respondent*

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: Mr L. Ó Catháin

Members: Mr J. Hennessy
Ms S. Kelly

heard this claim at Waterford on 23rd May 2012

Representation:

Claimant: Mr. Neil Breheny, Neil J Breheny & Co, Solicitors, 4 Canada Street, Waterford

Respondent: No appearance or representation on behalf of the respondent

Claimant's Case

The claimant was the General Manager of the respondent hotel. The claimant's employment ran smoothly until he was suspended without pay on the 19th of January 2010 as a result of allegations that were not communicated to him until the 27th of January. The claimant replied disputing the allegations on the 2nd of February. The allegations were as a result of events that had happened six months previous to this. A disciplinary meeting was held on the 10th of February. The claimant was not in receipt of any money during the process and as a result was forced to resign on the 27th of February in order to claim a Social Welfare payment.

The claimant believes that the disciplinary process was motivated by purely financial reasons. The respondent wanted to engage in activities contrary to their liquor licence terms and the claimant continuously highlighted this and objected to the proposed illegal activity.

Determination

The Tribunal is satisfied that the respondent was properly on notice of the hearing. The claim was one of constructive dismissal and it therefore fell to the claimant to prove his case.

Based on the uncontested evidence of the claimant the Tribunal find that he was in fact constructively dismissed and award him €45,000.00 as compensation under the Unfair Dismissals Acts, 1977 to 2007.

The claim under the Minimum Notice and Terms of Employment Acts 1973 to 2005 does not apply as this is a constructive dismissal claim.

The claim under the Organisation of Working Time Act 1997 is dismissed as the claimant was in receipt of his holiday entitlement.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)