

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE – *appellant*

CASE NO.
UD2212/2010

against the recommendation of the Rights Commissioner in the case of:

EMPLOYEE – *appellant*

v
EMPLOYER – *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr C. Corcoran B.L.

Members: Mr M. Noone
Mr G. Whyte

heard this appeal at Dublin on 29th August 2012

Representation:

Appellant(s): Mr Brendan Byrne
Siptu
Liberty Hall
Dublin 1

Respondent(s): Liquidator

This case came before the Tribunal by way of an employee appealing a recommendation of a Rights Commissioner under the Unfair Dismissals Acts, 1977 to 2007, ref: r-08858-ud-09/RG.

The determination of the Tribunal was as follows:-

The respondent company has gone into liquidation. The Liquidator was present for the hearing.

The claimant gave evidence that her employment with the respondent company, a bookmakers, commenced in 2003. On Saturday June 13th 2009 the claimant was suspended and told to attend a meeting the following Wednesday with the Head of Security. She was told that she had not followed correct procedure in regard to the staff rota the previous week and she had argued with her supervisor.

The claimant worked 40 hours per week over five days, but the claimant believed that the respondent company wanted her to work her hours over four days in order to reduce her travel allowance. She had requested to work particular hours the week before she was suspended so she could be with her daughter who was sitting exams. Her supervisor did not accommodate her so she arranged to swap with colleagues. When she informed her supervisor of this over the phone they had an argument. Her supervisor told her to take a sick day the following day, which she did. The claimant worked on Thursday and Friday of that week as normal. She was suspended on the Saturday.

The following week she attended a meeting with the Head of Security. The claimant was not advised that she could bring anyone with her. She was told it was 'just a chat' because of the phone call she'd had with her supervisor. The Head of Security said that she would speak to the claimant's supervisor afterwards. The meeting lasted three hours. She was not told that it was an investigation meeting. The claimant was told to attend a further meeting on Friday 19th June 2009.

She met the Operations Manager at the Friday meeting. The claimant had not received the letter which the Operations Manager told her had been posted to her in advance of the meeting. The Operations Manager explained that the letter had offered the claimant the opportunity to bring a representative with her. The claimant agreed to proceed without a representative. The claimant was unaware she was at a disciplinary meeting. The meeting took two hours at the end of which she was dismissed. She was never shown a copy of her supervisor's statement. The claimant appealed, but the dismissal was upheld. She gave evidence of her loss.

Determination:

Based on the uncontested evidence of the claimant the Tribunal finds that she was unfairly dismissed and awards her €45,292 based on a weekly salary of €871.00 under the Unfair Dismissals Acts, 1977 to 2007. Accordingly the appeal succeeds and the Tribunal overturns the decision of the Rights Commissioner.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

(CHAIRMAN)