

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

- **Appellant/Employee**

UD728/2011

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

- **Respondent/Employer**

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms F. Crawford BL

Members: Mr D. Peakin
Mr N. Dowling

heard this appeal at Dublin on 4 September 2012

Representation:

Appellant:
In person

Respondent:
Ms Claire Hellen, IBEC, Confederation House,
84/86 Lower Baggot Street, Dublin 2

The determination of the Tribunal was as follows:-

This case came before the Tribunal by way of an employee appealing against the Recommendation of the Rights Commissioner reference r-091391-ud-10/DI

For clarification purposes the appellant shall be referred to as the employee and the respondent as the employer

Determination:

The employer raised a preliminary issue as to whether the appeal was properly before the Tribunal. The Rights Commissioner's recommendation was signed on 7 January 2011 and the employee's appeal of that recommendation was received by the Tribunal on 16 March 2011.

Section 9 (2) of the Unfair Dismissals Acts, 1977 to 2007 provides

“An appeal under this section shall be initiated by a party by giving, within 6 weeks of the date on which the recommendation to which it relates was given to the parties, a notice in writing..... to the Tribunal.....”

When the Rights Commissioner heard the employee's claim in July 2010 the employee had an address in Dublin 15. The employee moved to her current address sometime in September 2010. The employee was in contact with the Rights Commissioner service on or around 14 February 2011 and received a copy of the recommendation in an envelope postmarked 16 February 2011.

While it was the employee's position that she had informed the Rights Commissioner service of her change of address in September 2010 she was unable to provide any documentary evidence to support that position. It follows that the Tribunal is not satisfied that the employee notified the Rights Commissioner service of her change of address at the time it occurred.

The Tribunal is satisfied that the recommendation issued from the Rights Commissioner Service on or around 7 January 2011 to the employee at the Dublin 15 address and that, for the purposes of the Unfair Dismissals Acts, the recommendation was given to the parties by 12 January 2011. 16 March 2011, the date the appeal was lodged with the Tribunal, was more than 6 weeks after recommendation was given to the parties. Accordingly, the Tribunal finds that there is no jurisdiction to hear the appeal under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)