

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE *-Claimant*

CASE NO.
UD2236/2010

against

EMPLOYER *-Respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan B.L.

Members: Mr J. Hennessy
Mr T. Kelly

heard this claim at Waterford on 30th July 2012

Representation:

Claimant: REP

Respondent: No appearance or representation on behalf of the respondent company.

The determination of the Tribunal was as follows:

It was the claimant's case that he was unfairly dismissed from the respondent company. The claimant commenced work as a sales representative with the respondent company in March 2008. The claimant established a very busy route and achieved high sales figure, working long hours which often included Saturdays and which he worked at his own discretion.

On Monday, 7th December 2009 the claimant was summoned to a meeting with the Managing Director and Mr. C of the company. The Managing Director expressed some dissatisfaction with the merchandising of the hardware section in a particular store. The claimant explained that he was absent the previous week due to tonsillitis and had still to catch up with that particular sales call. The Managing Director told the claimant that his work was not up to standard and that he may not have a job after Christmas unless some major changes were made but he did not know how the claimant could improve. The Managing Director did not specify what changes the claimant needed to make but closed the meeting by stating that had it not been for Mr. C's recommendation he would have dismissed the claimant that day.

After the meeting the claimant worked even longer hours but he had a strong impression from the meeting that the Managing Director wanted him out of the company for some reason. The Managing Director's son was doing some relief work around the country but did not like working away from home. Mr. C also told the claimant in or around this time that there would be big changes as MD's son was anxious to work closer to home.

The claimant was called to a subsequent meeting on the 20th January 2010 where Mr. C informed him that he was dismissed but that if it was up to him the claimant would continue to be employed. The claimant worked his notice until his employment terminated on the 29th January 2010. The Managing Director's son subsequently worked in the sales area within which the claimant had been located.

The claimant gave evidence of loss and efforts to mitigate that loss including securing employment one year after the dismissal, albeit at a lesser rate of pay.

Determination:

Based on the claimant's uncontested case the Tribunal finds that he was unfairly dismissed and finds the appropriate remedy to be compensation in the sum of €30,051.84 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)