

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD238/2011

against

EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K. T. O'Mahony B.L.

Members: Ms M. Sweeney
Ms H. Kelleher

heard this claim at Cork on 11th July 2012

Representation:

Claimant: Ms Deirdre O' Callaghan B L instructed by
Ms Lillian Nagle, Stokes & Co, Solicitors, 20 Grand Parade, Cork

Respondent: Mr. Gerard Murphy, Gerard Murphy & Co.,
Chartered Certified Accountants, 46 St. Mary's Road, Midleton, Co. Cork

An observer as distinct from a representative appeared from the offices of the receiver. She played no active part in this hearing.

The determination of the Tribunal was as follows:

Respondent's Case

No evidence adduced.

Claimant's Case

The claimant commenced employment in September 2000 as a bar manager with the respondent. The premises where he worked closed for business in November 2009 due to flood damage. From that time onwards the claimant continued to be employed there and actually worked there without remuneration up to June 2010. During that month he met the owner of the bar. The claimant had no difficulty in accepting his offer to revert to the status of a general bar person. The owner also offered the claimant a job in a city centre location. The claimant's response was that he needed to think about it and would revert to him in two weeks.

When the claimant “deciphered the situation” in his head he concluded that this offer to work in the city centre amounted to his dismissal. Besides he did not wish to work in the city centre and wished to work in the country premises. The claimant did not contact the owner with that information. There has been no communication between the claimant and the respondent subsequent to that meeting in June 2010.

Determination

The claimant had no difficulty reverting to the status of a general bar person in the country bar. He did not clarify with the respondent his offer to him to work in a city centre bar. The Tribunal finds that there was no dismissal in this case. Accordingly, it has no jurisdiction to hear the claim under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

