

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE (*claimant*)

CASE NO.
UD251/2011
MN253/2011

Against

EMPLOYER (*respondent*)

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms S. McNally

Members: Mr. P. Casey
Mr J. Flavin

heard this claim at Cork on 6th July 2012

Representation:

Claimant(s) : Guilfoyles, Solicitors, Tuckeys House, 8 Tuckey Street,
Cork

Respondent(s) : No appearance by or on behalf of the respondent

The determination of the Tribunal was as follows:

The claimant commenced his employment with the respondent on 6th May 2008. He was promoted to Foreman after one month in his employment. He was told he would not be paid the foreman rate but was promised a 5% bonus on the profits of particular jobs. The claimant was then promoted to Project Manager, followed by a promotion to Contracts Manager.

After some time, it became apparent that the CWPS (pension scheme), as well as travel/lodgings, overtime and correct rates of pay were not being paid by the respondent. The claimant was then demoted to Foreman.

In June 2010, while working in Ennis, an accident occurred involving the hoist. The claimant received a telephone call to complete an accident report. After this was completed he received a call to say that it was not completed properly and was told to drop it in over the weekend. The claimant said he would do it the following week as he had not been paid for the last two

weeks. On the following Monday morning BW rang asking where the form was. The claimant said he was waiting for outstanding wages. He was told to “get your stuff” and if he did not get out he would be fired.

The claimant subsequently drove to the office, printed the form and handed it in. BW said he was giving the claimant two weeks’ notice and said “your lippy”. The claimant asked for the money he was owed as regards bonus pay, wages, and holiday pay. BW said he would do a spread sheet and would tell the claimant what he was owed. The claimant offered to go through the timesheets to help establish what he was owed and he was told by the office employee that she would send the timesheets on to him. He did not receive the timesheets.

The claimant was escorted off the premises and was told he would not be receiving his notice.

In reply to the Tribunal, the claimant stated that he did not have a figure on bonus money due as it was to be 5% of the respondent’s profits. He never received any bonus money from the respondent. No claim was made under the Payment of Wages Act or the Organisation of Working Tim Act.

The claimant gave evidence pertaining to loss and his efforts to mitigate the loss.

Determination

Based on the uncontested evidence of the claimant, the Tribunal is satisfied that the claimant was unfairly dismissed and awards the sum of €25,000 under the Unfair Dismissals Acts, 1977 to 2007.

The Tribunal also awards the appellant his statutory entitlement of €1,646, being the sum due for two weeks’ notice, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)