

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.
UD2144/2010

EMPLOYEE *-claimant*

against

EMPLOYER *-respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. P. Meghen

Members: Mr G. Andrews
Mr D. Mcevoy

heard this claim at Limerick on 17th July 2012

Representation:

Claimant: Mr. Ger Kennedy, SIPTU, 4 Church Street, St John's Square, Limerick

Respondent: In Person

Respondent's Case

The respondent is a casino. The claimant was employed as floor staff. On Monday the 22nd of February 2010 the respondent became aware that there was €400.00 missing from the float from the previous night. There were 6 staff members, including the claimant that could have been responsible for taking the money. The respondent attempted to contact the claimant as he had been working the night before and he was supposed to be in that morning. When the respondent asked the claimant he admitted that he had borrowed the money. The respondent had already asked all the other staff that were working. The claimant had borrowed money before but they had been very small sums (€40-€50) and he had always rang and asked permission before doing so. The respondent did not find a note saying the claimant had borrowed the money.

The claimant was suspended that day so the respondent could 'figure it out'. In consultation with the other directors the decision was taken to dismiss the claimant, possibly a week after he was suspended. The respondent had one meeting and one phone call with the claimant. The claimant was not offered representation or the right to appeal the decision.

Claimant's Case

The claimant maintains there was a system in place within the respondent for staff to borrow money. Permission was given by the respondent manager; the respondent owner would not be aware of the transactions. If the manager was not present a note would be left. On the 22nd of February another staff member asked the claimant if he had taken the money. The claimant said he had borrowed it and had left a note. The claimant was due to be off work the following two days. On Tuesday the respondent rang the claimant and informed him that he was being suspended. The suspension continued for a week. The claimant rang his manager and asked 'what's the story' to which his manager answered 'you know the story.' The claimant then phoned the respondent owner and was told that he was 'sacked.'

The claimant gave evidence of his loss and his attempts to mitigate his loss.

Determination

The Tribunal holds the view that all off the evidence presented, by both parties, was uncorroborated, conflicting and very unsatisfactory.

The respondent had no disciplinary procedures in place. The claimant did not have a Contract of Employment and was not in receipt of payslips. Fair procedures were not employed in effecting the claimant's dismissal. However the claimant did contribute to his dismissal when he borrowed a large amount of money that was well in excess of any previous loans, even if he possibly left a note.

The Tribunal find that the claim under the Unfair Dismissals Acts 1977 to 2007 succeeds and awards the claimant €2,500.00 in compensation.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

(CHAIRMAN)