

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
EMPLOYEE (*appellant*)

CASE NO.  
PL2/2011

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

EMPLOYER (*respondent*)

under

### **PARENTAL LEAVE ACT, 1998 AND 2006**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr T. Taaffe

Members: Mr T. O'Grady  
Mr F. Keogh

heard this appeal at Dublin on 7th September 2012

Representation:

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Appellant(s) :

Respondent(s) :

The decision of the Tribunal was as follows:

This case came before the Tribunal by way of an employee appeal of a Rights Commissioner recommendation under the Parental Leave Act, 1998 and 2006, reference r-095134-pl-10/DI.

### **Claimant's case**

The claimant's wife was very ill during the morning of 11<sup>th</sup> May 2010. The claimant did not attend work on 11<sup>th</sup> May as a result of the illness. When he went to work the following day, he completed a form claiming force majeure leave. He was informed by his Depot Manager that his request was being refused.

In cross-examination when asked why he did not call an ambulance, the claimant stated that "she was sick, not dying". He also had to consider the cost of hospital/GP charges. He did not need to go to the pharmacy as he had medication in his house. The claimant was allowed to take an annual leave day instead of force majeure leave.

In reply to the Tribunal, the claimant explained his presence was indispensable because his wife was very unwell and he did not want to leave her alone in the house.

## **Respondent's case**

Giving evidence, the Depot Manager stated that the claimant called to the office on 12<sup>th</sup> May 2010 in order to complete the relevant form for force majeure leave relating to 11<sup>th</sup> May. The Depot Manager felt the explanation given by the claimant was not of a significance nature that it required him to stay at home with his wife. He did not believe the claimant's attendance was indispensable. There was a lack of supporting evidence from the claimant eg hospital visit/medical advice.

The Operations Manager gave evidence stating that staff are aware of the procedures and that reasonable proof is always required as per the Dublin Bus guidelines for staff availing of force majeure leave - a copy of the guidelines was opened to the Tribunal.

## **Determination**

The Tribunal, having considered the evidence adduced, is satisfied that the appellant failed to discharge the onus upon him to establish that his presence with his wife was indispensable.

The appeal under the Parental Leave Act, 1998 and 2006, therefore fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)