

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYER

UD2/2011

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

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. E. Murray

Members: Mr. P. Casey
Mr. J. Flavin

heard this appeal at Cork on 17th May 2012

Representation:

Appellant:

Mr. John Barry,
Management Support Services (Ireland) Limited, The Courtyard, Hill Street, Dublin 1

Respondent(s) :

Mr. Paudie O'Mahony,
Babington Clarke & Mooney, Solicitors, 48 South Mall, Cork

This matter came before the Tribunal on the 17th of May 2012 by way of an appeal by the employer against the findings of the Rights Commissioner Ref: r-083218-ud-09/GC.

The respondent is essentially a franchise holder of a motivational weight loss business. The Claimant was involved as a weight loss counsellor in one of the outlets.

Evidence was heard from the managing director of the respondent and from the claimant. Essentially, the claimant's wages cheque did not arrive on its due date. By arrangement with her employer she took a sum of money in advance of the cheque arriving, and when the cheque ultimately arrived she refunded her employer the entire amount of the monies advanced. There may have been some confusion on the part of the employer as to the amount that the employer consented to the claimant taking in advance, and the employer dismissed the employee on the basis that the amount taken was in excess of the amount that she consented to, and that this gave rise to a loss of trust and confidence on the part of the employer.

The Tribunal are unanimously of the view that there was no wrong doing on the part of the Claimant and that there was no possible justification for her dismissal arising out of the facts as

outlined by both parties.

Determination

Having considered the evidence the Tribunal are unanimously of the view that the finding of the Rights Commissioner Ref: r-083218-ud-09/GC should be upheld and consequently the Tribunal upholds the award of €12,000.00 made to the Claimant.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)