

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NOS.

EMPLOYEE – *claimant*

MN311/2011
WT93/2011

against

EMPLOYER – *respondent*

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 ORGANISATION OF WORKING TIME ACT 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr R. Maguire

Members: Mr M. Carr
Mr N. Dowling

heard this claim at Trim on 30th October 2012

Representation:

Claimants: The claimant in person

Respondent:

The decision of the Tribunal was as follows:-

Claimant's Case

The claimant told the Tribunal that she started work in June 2010 for M. Later M told her that she was unable to continue but a new owner would take over and keep all the staff. The claimant usually worked 7 to 3 Monday to Friday. Her hours were much the same after the respondent took over.

On 31st December 2010 the respondent told the claimant that he no longer needed her. That was it. She was not paid notice or for the Bank Holiday.

Respondent's Case

The respondent told the Tribunal that he leased the premises from M. He did not take responsibility for the staff. M issued each staff member with a p.45. He issued new contracts to the staff he wanted to continue with. The claimant did work for him but only for 5 weeks.

The premises had been a shop and after the respondent took over the lease it continued as a shop. M knew that he did not intend taking on the staff.

Determination

Based on the information given by the parties, the Tribunal is satisfied that the business transferred to the respondent when he took over the lease of the premises and that a transfer of undertaking occurred. There was no break in the claimant's service.

The claim under the Minimum Notice and Terms of Employment Acts 1973 to 2005 succeeds and the claimant is awarded the sum of €356.00 being one week's pay.

The claim under the Organisation of Working Time Act 1997 also succeeds and the claimant is awarded the sum of €73.20 being one day's pay.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)