

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE – *claimant*

CASE NO.
UD723/2011

against

EMPLOYER – *respondent 1*

&

EMPLOYER – *respondent 2*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J Revington SC

Members: Mr J O'Neill
Mr C Ryan

heard this claim at Dublin on 2nd August 2012 and 24th September 2012

Representation:

Claimant(s): In person

Respondent(s): *Respondent 1:*
Ms Maeve McElwee
IBEC, Confederation House, 84/86 Lower Baggot Street, Dublin 2
Respondent 2:
Ms M P Guinness BL, instructed by:
Mr Daniel McLoughlin,
B Vincent Hoey & Co, Solicitors
Law Chambers, Fair Street, Drogheda, Co Louth

The determination of the Tribunal was as follows:-

Preliminary issue:

The claimant stated on the form T1A that her employment ceased in March 2010. She submitted her claim under the Unfair Dismissals Acts, 1977 to 2007, on 28 February 2011. The respondents' representatives also raised the issue that both named respondents are employment

agencies and were therefore not the employer for the purposes of the Unfair Dismissals Acts. As the claimant had not taken legal advice the Tribunal adjourned the matter to another day to allow her to do so.

On the second day of hearing the claimant stated that she had not sought legal advice as she could not afford to do so. She gave evidence that her delay in submitting form was because at a meeting with two employees of the first named respondent she had been promised work with a new enterprise being established. However, this job did not materialise.

During cross-examination the claimant was asked why she did not lodge the claim form on time in relation to the second-named respondent. She stated that as the Department of Social Protection wanted a reason as to why she was not working she requested a letter from the second-named respondent to explain why she wasn't working.

She agreed that in April 2010 she was advised by the first-named respondent that she would no longer be placed by them. She contended that after the meeting one of the people she met told her that he would give her a different job and so she waited for that.

An employee of the first-named respondent gave evidence that he and a colleague conducted the appeal meeting with the claimant on 28 April 2010. The dismissal was upheld. The claimant worked as a nurse and had been given placements by the respondent, an employment agency. The claimant was dismissed for professional misconduct and the agency was unable to give her placements as a result. He did not tell the claimant that he was opening a new enterprise or give her hope that she would get a new job.

During cross-examination he stated that it would have been impossible to give the claimant a new placement after the process that had been gone through.

The respondent's representatives contended that there were no exceptional circumstances preventing the claimant from making her claim in time.

Determination:

Having heard the evidence of the claimant and an employee of the first-named respondent the Tribunal prefers the evidence of the respondents. The claim under the Unfair Dismissals Acts, 1977 to 2007, was not made in time and therefore the Tribunal has no jurisdiction to hear the case.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)