

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE – *claimant*

CASE NO.
UD2354/2010
RP3161/2010
MN2300/2010
WT1043/2010

Against
EMPLOYER – *respondent 1*

EMPLOYER – *respondent 2*

EMPLOYER – *respondent 3*

EMPLOYER – *respondent 4*

EMPLOYER – *respondent 5*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
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 P O'Leary BL

Members: Mr M Carr
Mr J Moore

heard this claim at Drogheda on 8th October 2012

Representation:

Claimant(s):

Respondent(s): No appearance or representation

The determination of the Tribunal was as follows:-

There was no appearance by or representation on behalf of the respondents. The Tribunal is satisfied that the respondents were on notice of the hearing. The first named respondent submitted a sick certificate on the day of the hearing. No application for adjournment was made.

The claims under the Redundancy Payments Acts, 1967 to 2007, and the Organisation of Working Time Act, 1997, were withdrawn at the outset of the hearing.

The claimant gave evidence. He worked as a bar manager from 1 November 2004 until 11 October 2010. The bar had changed owners while he worked there. He worked for the first-named respondent most recently. He understood that the first-named respondent had taken

on the lease of the bar. He did not have a written contract of employment.

On Saturday 9 October 2010 the claimant was on a day off. He received a phone call from the cleaner at the bar. She told him that there had been a break in. When he went to the bar he realised that he had left the coin float out of the safe and it had been stolen. It contained €2,400.

He informed his employer who then came to the bar. They had an argument. The claimant asked his employer if he wanted him to resign. His employer told him to do what he wanted. The claimant left his keys to the bar on the bar and left. He phoned the employer's office manager who told him to enjoy his day off and that they would speak again on Monday.

The claimant rang the office manager the following Monday as he did not have keys to open the bar. The office manager said that the employer told him that the claimant had resigned. The claimant disputed this. The office manager organised a meeting between the claimant and his employer. The claimant attended with his fiancé and the employer attended with the office manager. The claimant said that he wanted to return to work but the employer told him that he had resigned and "that was the end of it".

He was given his outstanding wages and holiday pay the following week. He was not paid in lieu of notice. The office manager offered to talk to the employer on the claimant's behalf. He suggested that the claimant offer to pay a sum every week to repay the amount stolen, which the claimant agreed to. However, he did not hear from the office manager or his employer again. The claimant gave evidence of his loss and mitigation of loss.

Determination:

Having heard the claimant's uncontested evidence the Tribunal finds that he was unfairly dismissed. Accordingly, his claim under the Unfair Dismissals Acts, 1977 to 2007, succeeds and the Tribunal awards him €30,303.00 (thirty thousand, three hundred and three euro). In the circumstances

The Tribunal awards the claimant €3,108.00 (three thousand, one hundred and eight euro) in respect of four weeks' pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)