

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.
UD2338/2010
MN2278/2010

EMPLOYEE -*claimant*

against

EMPLOYER -*respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. Clancy

Members: Mr. G. Andrews
 Ms S. Kelly

heard this claim at Limerick on 28th August 2012

Representation:

Claimant: Mr. Michael O'Donnell, Main Street,
 Rathkeale, Co Limerick

Respondent: Mr. Michael Loftus, Loftus Maher & Co.,
Accountants, No. 3 Courtfields, Commercial Centre,
Raheen, Limerick

Respondent's case:

The Tribunal heard evidence from the owner of the respondent, which is a public house. He explained that he had difficulty in trying to trade and to pay the overheads. He had a serious cash flow problem. He had to keep staff numbers and staff wages down. He cut corners where he could and the claimant was the obvious choice at the time.

It was put to the witness that other people were hired after the claimant was let-go. He explained that they got bust for a period and so they got some staff in but there was no deliberate act to replace the claimant.

When asked if he went through procedures at the time he said that he did not as he just had to cut the wage bill.

The Tribunal asked the witness why the claimant was an obvious choice and he said it was because of her "decent wage". He was asked if he thought about a pay cut and he said no. he did not consider job sharing or asking her to work part time or short time.

Claimant's case:

The Tribunal heard evidence from the claimant. She commenced work at the respondent in December 2008. She mostly worked evenings from Monday to Sunday. If someone did not turn up for work she would get a phone call and she would come in to work.

Two weeks prior to her being let-go the bar manager's partner who also worked there had her hours increased. The claimant was told that there was insufficient work because of the downturn. She spoke to the owner and he apologised about the way things had gone. She asked him about the advertisement for staff and he told her that it was a mistake in the office. The claimant told the Tribunal that she would have been happy to work part-time.

Determination:

The Tribunal are unanimous that the claimant was unfairly dismissed. The claimant under the Unfair Dismissals Acts, 1977 To 2007, succeeds. The Tribunal determines that compensation be the most appropriate remedy and awards the claimant the sum of €27,000.00.

The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, succeeds and the Tribunal awards the claimant the sum of €800.00.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

