

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM OF:  
EMPLOYEE

CASE NO.  
MN1634/2010  
UD1679/2010

Against

EMPLOYER  
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: Mr M. Gilvarry

Members: Mr D. Morrison  
Ms R. Kerrigan

heard this claim at Letterkenny on 8th February 2012 and 26th March 2012  
and 20th June 2012

Representation:  
\_\_\_\_\_

Claimant:

Respondent: Not Present or Represented

The determination of the Tribunal was as follows:-

The Tribunal is satisfied that the respondent was properly notified of the hearing. Neither the respondent nor a representative on its behalf attended the hearing.

**Claimant's case**

The Tribunal heard evidence from PM that he began work as a care assistant for the respondent in 2006. Employment was largely uneventful until he received a telephone call from his employer in February of 2010 saying that an allegation had been made against him and requesting a meeting. He was unaware of what allegations had been made against him and was only made aware of them one hour before the meeting took place. He never received any follow up or outcome from the meeting and assumed everything had been talked through and was sorted.

On the 2<sup>nd</sup> March 2010 PM received another telephone call from his employer to say there were more allegations against him, he also received a hand written letter which included disciplinary procedures. The allegation was that he pulled a buzzer from the wall so a patient would not be able to ring it. He was taken aback but remembered the incident well. It was during the snow when most people were unable to get to work. A patient was constantly ringing the bell and he went to his

room to explain that there were no staff available and he would get to him as soon as he could. He did remove the bell and left it on the handrail but the emergency cord was still in place.

It is policy that any investigation should be carried out by the nurse in charge but the investigation was carried out by the owner and he was never allowed back into the establishment. He received his letter of dismissal in April of 2010. PM had no previous warnings and had only ever missed one day from work.

Under cross examination PM said that in hindsight what he done on the day was wrong. If there had been kitchen staff on duty that morning they would have got the patient a cup of tea or something and the incident may not have occurred. He felt the dismissal was unwarranted and his name and character had been called into question.

### **Determination:**

Having heard the evidence on the part of the claimant, which was uncontested by virtue of the respondent's decision not to attend, the Tribunal is satisfied that the claimant was unfairly dismissed but that by his actions he contributed to his own dismissal. Accordingly, he is awarded €5,500.00 as compensation under the Unfair Dismissals Act 1977 to 2007.

As no notice was given to the claimant, his claim under the Minimum Notice Acts also succeeds and the claimant is awarded the sum of €726.60 being 2 weeks gross pay).

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

