

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
EMPLOYEE  
- *claimant*

CASE NO.  
UD418/2011

against  
EMPLOYER  
- *respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. E. Kearney BL

Members: Mr T. Gill  
Ms H. Murphy

heard this claim at Galway on 13th September 2012

Representation:

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Claimant(s) : Mr Bryan Brophy, Sandys & Brophy, Solicitors, 6 Sea Road, Galway

Respondent(s) : Mr. John Brennan, IBEC, West Regional Office, Ross House,  
Victoria Place, Galway

### Preliminary Point

The claimant's T1A form was received in the Tribunal secretariat on 21 January 2011. According to the details supplied on the T1A form the claimant's employment ended on 5 July 2010. At the hearing the respondent's representative, submitted that the Tribunal does not have jurisdiction to hear the claim as the claim was lodged with the Tribunal outside of the 6 month time limit prescribed by Section 8 (2) of the Unfair Dismissals Acts. He stated that the respondent company agreed with the information supplied by the claimant on the T1A form that the claimant's employment ended on 5 July 2010. Section 8 (2) (b) of the Unfair Dismissals Act 1977 provides for the Tribunal to extend the time period allowed to 12 months from the date of dismissal, if the Tribunal is satisfied that exceptional circumstances prevented the claim from being lodged within the aforesaid 6 months time limit. The respondent's representative submitted that no such exceptional circumstances existed and the Tribunal has no jurisdiction to hear the claim.

The Tribunal heard direct evidence from the claimant that he was informed by the respondent

company that he was going to be made redundant. He did not accept this as he believed that the company was simply changing the name of his job and believed that his job within the company was not redundant. He gave evidence that the company was recruiting new employees to do his job. He was firstly told that he was going to be made redundant in April but this date was extended on a number of occasions by the respondent company. Ultimately he was made redundant and received a cheque for €8867.49 on 4 August 2010. He accepted that his trade union had negotiated this amount on his behalf. He gave further evidence to the Tribunal that this employment did not cease on 5 July 2010. He could not recall his final day of employment but gave evidence that he worked between 5 July 2010 and 4 August 2010. He accepted that he received his P45 which stated his date of leaving as 5 July 2010. He could not recall if he received a 2<sup>nd</sup> P45. He confirmed that he had signed and dated the T1A form and was aware of the contents of the form which stated his employment ended on 5 July 2010. He stated that his solicitor had erred in filling out the details on the form. He told the Tribunal that he had documentary evidence which showed that he worked for the respondent after 5 July 2010. He did not have this documentary evidence with him at the hearing but could provide this evidence to the Tribunal at a later date.

The Tribunal directed that the claimant submit documentary evidence covering the period from 5 July 2010 to 4 August 2010 to the EAT on or before 20 September 2012 to substantiate his claim that he worked until 4 August 2010. The claimant undertook to furnish this documentation. The Tribunal also directed that this documentation be copied to the respondent's representative. The Tribunal reserved their decision on the preliminary point pending the submission of this documentation by 20 September 2012.

### **Determination on Preliminary Point**

The Tribunal did not receive any such documentary evidence as directed supporting the claimant's contention that he worked for the respondent between 5 July 2010 and 4 August 2010 and the Tribunal is not satisfied that the claimant worked for the respondent beyond 5 July 2010. The claimant's T1A form was not received in the Tribunal secretariat until 21 January 2011 and the Tribunal finds that no exceptional circumstances existed which prevented the claimant from lodging his claim within the six months time limit prescribed in the legislation. Accordingly the Tribunal finds that it has no jurisdiction to hear the claim.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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