

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIMS OF:

CASE NO.

Employee

UD1185/2011  
RP1550/2011

MN1276/2011  
WT483/2011

against  
Employer

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
ORGANISATION OF WORKING TIME ACT, 1997  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007  
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. F. Crawford B.L.

Members: Mr. M. Noone  
Mr. J. Flannery

heard this claim at Dublin on 13th November 2012

Representation:

Claimant:

Respondent:

No appearance by or on behalf of the respondent

**There was no appearance by or on behalf of the respondent and the Tribunal is satisfied that they were properly notified of the hearing.**

**Claimant's case**

At the outset the claim under the Redundancy Payments Acts, 1967 to 2007 was withdrawn.

The claimant commenced employment as a truck driver with the respondent on 26<sup>th</sup> March 2007. His employment was terminated by way of redundancy on 19<sup>th</sup> May 2011. The claimant's representative contended that the claimant was unfairly selected for redundancy.

The claimant told the Tribunal that he and his Lithuanian colleagues were treated differently

from their Irish counterparts and that he felt humiliated and discriminated against.

For approximately four months before his employment ended the claimant was working reduced hours. The hours he worked varied from week to week and some weeks he did not work at all. Pay slips were submitted to the Tribunal in respect of some of this period of time. The claimant went to the respondent two weeks before he was made redundant and asked for work but was told that there was none. He did not sign the form RP50 until 19<sup>th</sup> May 2011.

In respect of the claim under the Organisation of Working Time Act, 1997 the claimant said that he was paid all his annual leave entitlements but was only paid for 8 hours extra when he worked public holidays. Reference was made to the pay slips already submitted to the Tribunal.

### **Determination**

The Tribunal have carefully considered the oral and documentary evidence adduced at the hearing. Based on this evidence and in particular the pay slips, the Tribunal is satisfied that the claimant was on short-time and lay-off for approximately four months before being made redundant on 19<sup>th</sup> May 2011. The respondent went into liquidation two months after this on 22<sup>nd</sup> July 2011 and the Tribunal sees no basis to the claim that the claimant was unfairly selected for redundancy. Accordingly the claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

The claimant told the Tribunal that he was made aware of the impending redundancy two weeks before it occurred and the form P50, which was signed by him, includes details of this notice period. Therefore the Tribunal finds that the claimant was paid in accordance with the Minimum Notice and Terms of Employment Acts, 1973 to 2005 and his claim under these acts fails.

The Tribunal examined the sample of pay slips provided and concluded that the claimant was paid extra for Public Holidays in accordance with the Organisation of Working Time Act, 1997 and therefore the claim under this act fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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