

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE *-appellant*

CASE NO.
UD1013/2011

RP1369/2011

MN1139/2011
WT417/2011

against

EMPLOYER *-respondent*

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: Ms P. McGrath B.L.
Members: Mr. J. Horan
Mr. F. Barry

heard this claim at Dublin on 27th December 2012

Representation:

Claimant: Mr. Tim O'Hanrahan, O'Hanrahan & Company, Solicitors,
Lexington House, 71 Ballybough Road, Fairview, Dublin 3

Respondent: No appearance or representation

Background:

There was no appearance or representation on behalf of the respondent. The Tribunal is satisfied that proper notification was sent to the respondent. Accordingly, the Tribunal heard uncontested evidence from the claimant.

The claimant told the Tribunal that he was employed as a general operative. He worked for the respondent for over ten years. His relationship with his employer was good. During the latter years of his employment he became a shop steward in the respondent company. His relationship with his employer deteriorated somewhat.

At the end of his employment in March 2011 he had personal difficulties in that his mother was unwell. His mother did get better at a later time.

On 24th March 2011 there was a verbal incident between his employer and himself. During this incident he did not threaten to leave.

He sent in sick certificates to his employer. then a couple of weeks later his employer sent him

a form P45. He called to his employer and asked him about this and his employer told him that he was replaced.

The Tribunal heard evidence as to loss and the efforts of the claimant to mitigate loss.

Determination:

The Tribunal has carefully listened to the evidence adduced. The claimant came before the Tribunal and gave uncontested evidence to the effect that he was sent a form P45 two weeks after he had presented his employer with certificates that he was unfit for work in light of his anxiety and depression.

It is clear to the Tribunal that there was some communication breakdown on 24th March 2011 and the employer took the employee to have somehow resigned his employment. The Tribunal finds that the claimant could never have intended to resign his employment and was under immense personal pressure.

In all the circumstances the claimant was unfairly dismissed and in assessing compensation the Tribunal has regard to the length of employment and the steps taken by the claimant to mitigate his losses. The Tribunal awards the claimant the sum of €14,000.00, under the Unfair Dismissals Acts, 1977 To 2007.

Under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, the Tribunal awards the claimant the sum of €1,740.00, this being six weeks gross pay in lieu of notice.

The claimant under the Organisation of Working Time Act, 1997, was not prosecuted.

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

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)