

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE - *claimant*

CASE NO.

RP226/2011
UD183/2011
MN183/2011
WT46/2011

against
EMPLOYER – *respondent*

EMPLOYER- *respondent*

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 C. Egan B.L.

Members: Mr T. Gill
Ms H. Henry

heard this claim at Galway on 8th November 2012

Representation:

Claimant(s) :

Respondent(s) : No appearance by or on behalf of respondent

Summary of Evidence

The Tribunal is satisfied that the parties were properly on notice of the hearing. The claim under the Redundancy Payments Acts 1967 to 2007 was withdrawn by the claimant's representative at the commencement of the hearing.

The Tribunal heard uncontested evidence from the claimant that he commenced working for the respondent company in 2003. He progressed in the company to a position of general manager and at the time of his dismissal in June 2010 held the position of Managing Director. He also held a minor shareholding in the company. He had built the company into a profitable business

and the company had cash reserves of €500,000. He gave evidence that fellow directors (D) and (G) held the controlling shareholding in the company. (G) also had an interest in two other companies which were in financial difficulty. He gave evidence that the modus operandi of (G) was “to get his hands on the cash” of the respondent company to support his other companies which were in financial difficulty. (G) wanted to strip assets from the respondent company and he (the witness) would not agree to this. The claimant called to a meeting on 8 June 2010 and was offered a termination package to resign from his position. He did not accept this offer and was then dismissed from his position without notice. He was not given the right of representation at that meeting and was afforded no opportunity to appeal the decision. He subsequently removed himself as a director of the company. He told the Tribunal that he had setup a company in January 2010. The respondent company was aware of this and it was accepted that this was not a problem. There was no discussion about this company at the aforementioned meeting of 8 June 2010. The claimant stated that this company had “no contaminating factor” and no contracts were carried out between 2 February 2010 and 14 June 2010.

The Tribunal heard further evidence from the claimant that he had no written contract of employment and had taken no holidays in 2010 up to the time of his dismissal. The Tribunal also heard evidence in relation to his salary when working for the respondent and his efforts to mitigate his loss since his dismissal.

Determination

Based on the uncontested evidence of the claimant the Tribunal unanimously finds that he was unfairly dismissed from his employment and awards compensation in the sum of €140,000.00 under the Unfair Dismissals Acts 1977 to 2007. The Tribunal also awards the claimant the sum of €8334.36, this sum being the equivalent of four week’s pay under the Minimum Notice and Terms of Employment Acts 1973 to 2005.

Furthermore the Tribunal awards the claimant the sum of €4167.18, this sum being the equivalent of two week’s holiday pay under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

