

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE

CASE NO.
UD1127/2011
MN1217/2011

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: Ms. K. T. O'Mahony BL

Members: Mr. D. Hegarty
Mr. O. Wills

heard this case in Cork on 8 November 2012

Representation:

Claimant(s):
Mr. David Gaffney, Coakley Moloney, Solicitors,
49 South Mall, Cork

Respondent(s) :
Mr. David Taylor, Comyn Kelleher Tobin, Solicitors,
29 South Mall, Cork

The determination of the Tribunal was as follows:-

The claimant's employment with the respondent was terminated on 13 April 2011. The respondent conceded that the dismissal was unfair. There was a dispute between the parties as to the date of commencement of employment. Through an interpreter, the claimant gave sworn testimony as to the financial loss he had incurred subsequent to the termination of his employment with the respondent and as to the efforts he had made to mitigate that loss by obtaining new employment. It was alleged that the claimant had not received his notice entitlement.

Determination:

As this was a constructive dismissal there is no entitlement to notice under the Minimum Notice and Terms of Employment Acts, 1973 to 2005. Accordingly, the claim under those Acts is

dismissed.

The claim under the Unfair Dismissals Acts, 1977 to 2007 was conceded by the respondent. The Tribunal considers compensation to be the appropriate redress in all the circumstances of the case. Having considered the claimant's evidence on loss and mitigation the Tribunal awards him the sum of €12,500.00 (twelve-and-a-half thousand euro) under the said Acts as just and equitable compensation in his case.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)