

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE

CASE NO.
UD373/2011

against the recommendation of the Rights Commissioner in the case of:

EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Dr. A. Courell B.L.

Members: Mr D. Morrison
Ms R. Kerrigan

heard this appeal at Letterkenny on 6th September 2012 and 26th November 2012
and 4th March 2013

Representation:

Appellant: Connolly Doyle, Solicitors, St Oran's Road, Buncrana, Co Donegal

Respondent: Not present or represented on any of the three dates scheduled

The determination of the Tribunal was as follows:-

This case came before the Tribunal as a result of an appeal by the employee (the appellant) against a decision of the Rights Commissioner under the Unfair Dismissals Acts, 1977 to 2007 ref. R-079778-UD-09/EOS.

Preliminary Issue

The Tribunal heard uncontested evidence from the claimant as to the circumstances which lead to her resignation and her delay in sending her complaint to the Rights Commissioner.

Preliminary Determination:

On the preliminary issue, regarding the late lodgement of the claim for unfair dismissal, the Tribunal is unanimously agreed that the stress the claimant was under, on a continuing basis and the confusion created over the information received and the forwarding of the claimant's complaint to the Rights Commissioner Service by an officer of NERA provided for exceptional circumstances. The Tribunal will extend the date by a further six months upsetting the decision of the Rights Commissioner.

The claim under the Unfair Dismissals Act can proceed.

Substantive Issue:

The claimant was employed as a Sales Marketing Manager for a hotel the respondent company owned and which has since gone into liquidation. There were no problems until 2009. She was hosting a promotion of the respondent's premises in a shopping centre in Letterkenny. She received a call from Head Office asking why she had, allegedly been giving confidential information to the owners of the hotel, of whom she knew personally. She contacted HR and head office concerning the matter. She even contacted the Chief Executive Officer but was told not to bother him again. Her duties were changed and another staff member took over her duties. Her health declined and she attended her doctor. She felt the situation had become untenable and had no choice but to leave her employment.

Determination:

Based on the uncontested evidence the Tribunal finds the claimant was unfairly dismissed and awards her the sum of € 32,450.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)