

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
EMPLOYEE *-appellant*

CASE NO.  
UD839/2011

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

EMPLOYER *-respondent*

EMPLOYER *-respondent*

EMPLOYER *-respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms D. Donovan B.L.

Members: Mr J. Hennessy  
Mr F. Dorgan

heard this appeal at Kilkenny on 1st November 2012

#### **Representation:**

Appellant: Ms. Geraldine Malone, SIPTU, Membership Information & Support Centre,  
Liberty Hall, Dublin 1

Respondent: No appearance or representation on behalf of the respondent.

This appeal came before the Tribunal by way of an employee (the appellant) appealing against a Rights Commissioner's recommendation, reference: r-095369-ud-JOC.

#### Summary of evidence:

It was the appellant's uncontested evidence that her employment was largely uneventful for a number of years. However, following a meeting at the Labour Relations Commission in June 2009, the respondent became aware that the appellant held union membership. From that time the appellant found that the attitude towards her in the workplace changed. The appellant stated that she was rarely spoken to by management and she outlined that a duty was taken from her and given to a more junior member of staff. The appellant was also subject to a disciplinary process which she described as "completely fabricated." During the entire month of December 2009 one of the directors told other staff that they would be dismissed if they

spoke to the appellant. The appellant's position became untenable and she resigned. The appellant gave evidence pertaining to loss.

**Determination**

Having considered the uncontested evidence adduced at the hearing the Tribunal finds that the appellant's employment with the respondent had been uneventful for almost the entire 18 years that the appellant had been employed by the respondent and it was only after the appellant had joined a union that the respondent became dissatisfied with the appellant. The Tribunal is satisfied that there was conduct by the respondent such as entitled the appellant to consider herself constructively dismissed. Accordingly, the appeal under the Unfair Dismissals Acts, 1977 to 2007 succeeds and the Tribunal awards the claimant compensation in the amount of €25,646.00, thus varying the Recommendation of the Rights Commissioner reference: r-095369-ud-JOC.

Sealed with the Seal of the  
Employment Appeals Tribunal

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