

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD1675/2011, RP2215/2011
MN1732/2011, WT665/2011

against

EMPLOYER

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 F. Crawford B.L.

Members: Mr J. Goulding
Mr J. Flannery

heard this claim at Dublin on 9th January 2013

Representation:

Claimant : Ms Anne Harte, Charles B W Boyle & Son, Solicitors,
70 Middle Abbey Street, Dublin 1

Respondent : Mr Donal O'Reilly, Liquidator, No. 24 Boroimhe Birches,
Swords, Co. Dublin

The determination of the Tribunal was as follows:

There was no appearance from the respondent in this case. The respondent was placed into liquidation in August 2012. The liquidator for the respondent appeared but did not adduce evidence in this case.

Claimant's Case

The claimant commenced employment with the respondent in the summer of 2005. In addition to his role as a supervisor in a nightclub the claimant also undertook cleaning duties for approximately two years from October 2008 with the respondent. As a result of a dispute with his employer the claimant was subsequently discharged from those duties. The claimant stated that the respondent in or about November 2010, told him that until such time as he provided a valid tax clearance certificate from Revenue, his employment as a cleaner was "put on hold" At times he also organised and managed "Chinese Nights" at this club. In July 2011 the claimant secured a tax clearance certificate and submitted that document to the respondent. The

respondent reacted to that submission by dismissing the claimant.

Determination

Having heard and considered the uncontested evidence of the claimant, the Tribunal finds that the circumstances of his termination of employment amounted to an unfair dismissal. Accordingly, the claim under the Unfair Dismissals Acts, 1977 to 2007 is allowed and the claimant is awarded €25,000.00 as compensation under those Acts. The Tribunal makes no award for any purported loss of earnings regarding income alleged to be attained from the Chinese nights held at the club as deemed this a self-employed venture.

The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 succeeds and the appellant is awarded €1349.40 as compensation for outstanding notice.

The appeals under the Redundancy Payments Acts 1967 to 2007 and the Organisation of Working Time Act 1997 were withdrawn during the hearing.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)