

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE- *claimant*

UD848/2011  
RP1160/2011  
MN961/2011

Against

EMPLOYER 1 – *first respondent*

EMPLOYER 2 – *second respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. K.T. O'Mahony B.L.

Members: Mr. P. Casey  
Mr D. McEvoy

heard this claim at Cork on the 12 September 2012 and the 8 January 2013

#### **Representation:**

Claimant(s) :

Mr Patrick Horan, Joseph S Cuddigan & Co, Solicitors,  
30-31 Washington Street, Cork

Respondent(s) : no appearance by or on behalf of the second respondent at both hearings

The Tribunal is satisfied that all parties were properly notified of both hearings.

The claim under the Unfair Dismissals Acts 1977 to 2007 was withdrawn at the commencement of the hearing on the 12 September 2012.

#### **Summary of Evidence**

In January 2008 the appellant commenced employment with the first respondent, the former owner of the business. On the 11 September 2009 the first respondent leased the premises to the second respondent who took over the business. The term of the lease was for four years and eleven months. The appellant transferred with the business and continued to work in the shop

until the manager decided to close it on 13 January 2011, some time after the respondent had absented himself from the business and during which time the respondent could not be contacted.

### **Determination**

As the business was transferred to the second respondent the claim against the first respondent is dismissed.

Based on the uncontested evidence of the appellant the Tribunal finds that she was dismissed by reason of redundancy. Under the *European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003* the appellant has continuity of service from the commencement of her employment in the business on 11 January 2008 until the date of which the business was closed and her employment was terminated.

The Tribunal awards the appellant a lump sum payment under the Redundancy Payments Acts 1967 to 2007 based on the following information:

Date of Birth:	24 February 1970
Date of Commencement:	11 January 2008
Date of Termination:	13 January 2011
Weekly Gross Pay:	€351.00

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

The Tribunal further awards the appellant €702.00, being the equivalent of two weeks' gross pay, in lieu of notice under the Minimum Notice and Terms of Employment Acts 1973 to 2005.

NB 1 week and 2/3 days

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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