

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE
-claimant

UD1419/2011

against

EMPLOYER
- **First Named Respondent**

EMPLOYER
- **Second Named Respondent**

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Dr A. Courell BL

Members: Mr D. Morrison
Mr M. McGarry

heard this claim at Castlebar on 11 March 2013

Representation:

Claimant:

Respondents:

The determination of the Tribunal was as follows:

Determination:

In circumstances where the claimant was asserting that she had been constructively dismissed on 29 August 2010 and it was accepted there had been a transfer of an undertaking from the first named respondent to the second named respondent on 18 July 2010 and that the claimant had worked for the second named respondent subsequent to the transfer the Tribunal found that there could be no finding of unfair dismissal against the first named respondent and, accordingly, released them from the hearing.

The claimant lodged her claim with the Tribunal on 6 July 2011 and, as this was not within the period six months beginning on the date of dismissal as set out in Section 8 (2) (a) of the Unfair Dismissals Acts was required to show that exceptional circumstance prevented the lodging of the claim within that period.

The claimant gave extensive evidence of the ill-health which has undoubtedly befallen her since the

end of her employment with the second named respondent. Nevertheless the claimant was able to lodge a claim under the European Communities (Protection of Employees on Transfer of Undertakings) Regulations, 2003 on 26 January 2011. The claimant attended the Rights Commissioner hearing of her complaint on 7 June 2011. At these times the claimant was in the employ of another organisation involved in the same line of work in which she had previously been employed by the respondents. The Tribunal is not satisfied that the claimant has shown that exceptional circumstances prevented her from lodging her claim within six months of the date of dismissal. Accordingly, there is no jurisdiction for the Tribunal to hear the claim under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)