

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

UD666/2011

against
EMPLOYER
under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms C. Egan B.L.

Members: Mr P. Pierson
Mr O. Nulty

heard this claim at Longford on 12th April 2012, 5th December 2012 and 20th February 2013

Representation:

Claimant:

Respondent:

Respondent's case

The respondent is a large supermarket chain and the claimant was employed as a security officer in one of their shops from April 1998 until he was dismissed by letter dated 21st October 2010 on the grounds of serious misconduct.

A monthly "News Letter" was being displayed in the gent's staff toilet for a number of months. This "News Letter" had rude content and referred to staff members in derogatory and disrespectful terms. The respondent was concerned about this "News Letter" and undertook an investigation to determine who was responsible for its publication. As part of the efforts to identify the author of the "News Letter" the respondent had a covert CCTV camera installed in the security office. Footage from this camera was shown to the Tribunal in support of their allegation that the claimant was the author of this "News Letter".

The claimant was invited to a disciplinary meeting on a number of occasions and the respondent eventually decided that they would go ahead with this disciplinary hearing in the absence of the claimant as he failed to turn up at the appointed time and date. The decision taken at the hearing was to dismiss the claimant and he was informed of his right to appeal this decision.

The claimant appealed this decision and the person who heard the appeal decided to uphold the decision to dismiss him. The witnesses for the respondent were satisfied that the decision to

dismiss the claimant was a reasonable decision.

Claimant's case

The claimant denied that he was responsible for the "News Letter". In relation to the CCTV footage the claimant maintained that sometimes when the computer system crashed and was rebooted the "News Letter" would pop up on the monitor. The claimant put his own USB key into the hard drive at this point in order to copy the "News Letter" so he could show it to the Manager but it was not possible to copy it onto the USB key. The claimant also went to the Manager's office on one occasion when the "News Letter" popped up in order to show it to the Manager but the Manager was on leave at that time.

Determination

The Tribunal carefully considered the evidence adduced at the hearing. There was a clear conflict of evidence between the parties and the Tribunal prefers the evidence of the respondent.

The Tribunal is satisfied that the respondent followed fair procedures and acted reasonably in dismissing the claimant and that the claimant was not unfairly dismissed. Therefore the Tribunal finds that the claimant's claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)