

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE *-claimant*

CASE NO.

UD2375/2011

against

EMPLOYER *-respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. McGrath B.L.

Members: Mr D. Winston
Mr D. Thomas

heard this claim at Dublin on 25th April 2013

Representation:

Claimant:

Respondent:

Determination on Preliminary Issue:

The Tribunal has carefully considered the evidence adduced herein. The Tribunal has been asked to consider its jurisdiction to hear this matter by way of a preliminary issue.

The claimant's resignation was tendered; both parties accept that the employment terminated on the 17th of June 2011. The claimant's T1A form is stamped the 19th of December 2011 and therefore the notice in writing initiating the claim under the Unfair Dismissals legislation was not given to the Employment Appeals Tribunal until after the expiry of the six-month period allowed under the Acts.

The Tribunal notes that the onus rests with the claimant to establish that exceptional circumstances prevented the claimant from giving her notice in writing within the six month period allowed, in order that the time limit can be extended to twelve months.

The claimant gave evidence to the effect that she was very stressed and depressed on the termination of her employment with the respondent company and that although she knew that there was an option of seeking redress under the Unfair Dismissals legislation she was not in a fit state to give full and sensible consideration to this option for most of the six month period after the termination of employment.

The Tribunal has no reason not to accept that the claimant was very upset after the termination of her employment and that the thought of initiating proceedings compounded the stress experienced.

As against this, the claimant accepted that she was aware of the six month time limit and the fact that a hearing would not be immediate nor need it be proceeded with, if her health so dictated.

The respondent pointed to the fact that the claimant was in a position to hold down full time employment with her new employer from the 20th of June 2011 and this evidenced the fact that the claimant's levels of stress were not such that could have prevented the claimant from making a rational decision to initiate proceedings within the six month time period allowed.

On balance, the Tribunal must find that the claimant has not demonstrated that exceptional circumstances existed such that the claimant was prevented from bringing the claim within the time allowed. The claimant's feelings of stress and worry in a past termination situation were not exceptional and certainly did not prevent the claimant from bringing the claim as required.

The Tribunal cannot extend the time limit and the Tribunal therefore does not have the jurisdiction to hear the case under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)