

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE

CASE NO.
UD1855/2010

against the recommendation of the Rights Commissioner in the case of:

EMPLOYEE

-v-

EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr P. Hurley

Members: Mr T. Gill
Ms S. Kelly

heard this appeal at Nenagh on 31st May 2012

Representation:

Appellant: Richard Grogan & Associates, Solicitors,
16 & 17 College Green, Dublin 2

Respondent: Brian D. Hughes & Co., Solicitors, "Longmall",
Slievenamon Road, Thurles, Co. Tipperary

This case is before the Tribunal by way of an employee appealing the recommendation of a Rights Commissioner, ref: r-090778-ud-10/GC, under the Unfair Dismissals Acts, 1977 To 2007. The employee is the appellant and the employer the respondent.

Respondent's case:

The Tribunal heard evidence from the employer. He explained that they employed the appellant as a kitchen porter. She was a good employee. She did not speak very much English.

One afternoon the claimant was working and it was noticed that she "looked as white as a ghost". One of the waiting staff brought her home. He called to her house the next day to see how she was. He was told by someone that the appellant had high blood pressure and had forgotten to take her medication.

In or around March 2010 they were told that she was in hospital and would be out for the foreseeable future. In March 2010 the appellant's employment ended. He had asked the appellant and her family to come into the restaurant to see him. He had asked her family because she did not speak a lot of English. He told them that he was concerned about

her bloodpressure and he did not want anything to happen to her. He said that it would be better if she finished working for them. To his mind it was a mutual understanding.

Appellant's case:

The Tribunal heard evidence from the appellant. She explained through an interpreter that she left the hospital she was ready to return to work. Her employer had asked her for a document from her doctor to say she was fit for work. She brought this document to her employer and gave it to him. There was no one else present when she gave it to him.

It was put to the appellant that the employers position was that it was agreed that she finish work and the appellant denied that this was the case.

Determination:

The Tribunal having heard the evidence adduced in this case prefers the evidence of the employer.

The Tribunal, in the resolution of the inconsistencies prefers the evidence of the employer and believes that the agreement relating to the termination of the appellant's employment was genuinely and voluntarily concluded.

The appeal of the under the Unfair Dismissals Acts, 1977 To 2007, ref: r-090778-ud-10/GC, UD1855/2010, fails.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)