

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE - *appellant*

UD2165/2011
TE289/2011

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

EMPLOYEE - *appellant*
and

EMPLOYER - *respondent*
Under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001 UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr R. Maguire, B.L.

Members: Mr. R. Prole
Mr F. Keoghan

heard this appeal at Dublin on 4th April 2013

Representation:

Appellant(s): The appellant in person

Respondent(s): Ms. Mairead Crosby, IBEC, Confederation House, 84/86 Lower
Baggot Street, Dublin 2

The determination of the Tribunal was as follows:-

These appeals came before the Tribunal by way of an employee appealing against the recommendations of a Rights Commissioner reference r-107139-te-11/KC and r-107137-ud-11/JC dated 5th October 2011.

Preliminary Determination

At the outset of the hearing the representative for the respondent raised a preliminary issue as to the Tribunal's jurisdiction in this matter. It was contended that the appeals against therecommendation of the rights commissioner had had been lodged outside the period of sixweeks provided for under the Unfair Dismissals Acts, 1977 to 2007 and the Terms ofEmployment and Information Act, 1994 and 2001. The appellant informed the Tribunal that

hereceived the decision of the Rights Commissioner dated the 5th October on the 6th October 2011. The appellant lodged his appeal with the Tribunal on the 17th November 2011. Therepresentative for the respondent told the Tribunal that she forwarded a copy of the RightsCommissioner recommendation to the respondent company on the 6th October 2011.

Under Section 9(2) of the Unfair Dismissals Act, 1977

“An appeal under this section shall be initiated by a party by giving, within 6 weeks of the date on which the recommendation to which it relates was given to the parties concerned, a notice in writing (containing such particulars (if any) as may be specified in regulations under section 17 of this Act for the purposes of section 8 (8) thereof) to the Tribunal and stating the intention of the party concerned to appeal against the recommendation and a copy of the notice shall be given the other party concerned within the said period of 6 weeks.”

Under Section 8(2) (a) of the Terms of Employment (Information) Act 1994 and 2001

“An appeal under this section shall be initiated by the party concerned giving, within 6 weeks of the date on which the recommendation to which it relates was communicated to the party, a notice in writing to the Tribunal containing such particulars (if any) as may be specified in regulations under *subsection* (3) and stating the intention of the party concerned to appeal against the recommendation”

Having considered the submissions of the appellant and the representative for the respondent the Tribunal is not satisfied that the appeals against the recommendations of the rights commissioner in this case were made within six weeks from the date on which the recommendation was communicated to the parties concerned, as prescribed under the Acts. The Tribunal does not have discretion to extend the time limit. The appeals fail and the Tribunal upholds the recommendations of the Rights Commissioner under the Terms of Employment Information Act, 1994 to 2001 and the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

(CHAIRMAN)