

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE

CASE NO.
UD112/2012

- *claimant*

against
EMPLOYER
under

- *respondent*

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Taaffe

Members: Mr. P. Pierce
Ms. E. Brezina

heard this claim at Dublin on 9th May 2013

Representation:

Claimant(s) :

Respondent(s) :

The determination of the Tribunal was as follows:-

Background:

An issue arose concerning the lodging of the claim under the Unfair Dismissals Acts, 1977 to 2007 within the time limit of six months, as set out in Section 8 (2) of the 1977 Act.

The claimant's employment ceased with the respondent company on the 1st October 2010. This was stated on a letter of termination, the claimant's P45, the application lodged with the Rights Commissioner and the T1A form lodged with the Employment Appeals Tribunal.

The claim for redress under the Unfair Dismissals Acts, 1977 to 2007 was dated the 6th April 2011 and received by the Rights Commissioner on the 12th April 2011. The respondent objected to the Rights Commissioner hearing the claim in a letter dated the 8th July 2011.

A claim, under the Unfair Dismissals Acts, 1977 to 2007 dated the 8th January 2012, was received by the Employment Appeals Tribunal on the 19th January 2012.

Claimant's Position Re: Six-Month Time Limit:

The claimant states there is a provision in his contract stating if his employment was terminated he was entitled to four weeks' notice and this would bring his termination date to the 26th April 2011 and therefore the claim for redress under the Unfair Dismissals Acts, 1977 to 2007 is within the time limit.

The Chairman enquired of the claimant as to whether he wished to call any evidence or submissions arising out of the matter concerning any exceptional circumstances which may have arisen preventing him from lodging his claim within the six- month time period.

Section 7 (2) (a) and (b) of the Unfair Dismissals (Amendment) Act, 1993 states:

(2) A claim for redress under this Act shall be initiated by giving a notice in writing (containing such particulars (if any) as may be specified in regulations under section 17 of this Act made for the purposes of subsection (8) of this section) to a rights commissioner or the Tribunal, as the case may be -

(a) within the period of 6 months beginning on the date of the relevant dismissal, or

(b) if the rights commissioner or the Tribunal, as the case may be, is satisfied that exceptional circumstances prevented the giving of the notice within the period aforesaid, then, within such period not exceeding 12 months from the date aforesaid as the rights commissioner or the Tribunal, as the case may be, considers reasonable,

and a copy of the notice shall be given by the rights commissioner or the Tribunal, as the case may be, to the employer concerned as soon as may be after the receipt of the notice by the rights commissioner or the Tribunal.

Respondent's Position Re: Six-Month Time Limit:

The respondent's case is that all documentation, mainly completed by the claimant, states that his date of termination was the 1st October 2010 and therefore his claim was outside the six-month time limit under the Act.

Preliminary Determination Re: Six-Month Time Limit

For the Tribunal to consider the application of the claimant for an adjournment it is firstly required to satisfy itself that it has jurisdiction to hear the claim. It is common case that the claim was first made outside the statutory period of six months from the date stated by the claimant to be the date of his dismissal that this date was repeated by the claimant.

It is found and determined that no claim for minimum notice was made by the claimant. The Tribunal therefore finds that the claim was made outside the statutory period. Since no evidence has been presented or submissions advanced by the claimant to request the Tribunal to consider any presence of exceptional circumstances the Tribunal therefore finds and determines that it does not have jurisdiction to hear the claim under the Unfair Dismissals Acts, 1977 to 2007 which is therefore dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

(CHAIRMAN)