

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

UD2209/2011

against
EMPLOYER
EMPLOYER
under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Mr. J. Goulding
Mr. J. Maher

heard this claim at Dublin on 15th April 2013

Representation:

Claimant:

The claimant in person

Respondent:

Background

At the outset the respondent objected to this claim being heard by the Tribunal on the grounds of the Tribunal having no jurisdiction to do so.

It was common case that the claimant worked and was ordinarily resident in Poland during his employment with the respondent from 1st September 2010 to 21st September 2011. However he paid tax and PRSI to the Irish Revenue Commissioners and it was the contention of the claimant that he was therefore entitled to have his claim for unfair dismissal heard by the Tribunal under the Irish Unfair Dismissals Acts, 1977 to 2007.

The respondent told the Tribunal that although the claimant's contract of employment showed an Irish address for him and stated that he was to work in Ireland that in fact he lived and worked in Poland and that as such the Tribunal had no jurisdiction to hear this claim. The representative for the respondent referred to a previous decision of the Tribunal Ref: UD874/93.

Determination

Having carefully considered the evidence adduced at the hearing the Tribunal is satisfied that

even though the claimant paid tax and PRSI to the Irish Revenue Commissioners during his employment with the respondent he was not ordinarily resident in Ireland but was resident and worked in Poland.

While the Act does not exclude the claimant, it does not admit him. If however, the claim could be heard in this jurisdiction, it is quite clear that the proper law governing the contract of employment is Polish law. The Tribunal is not competent to decide questions of foreign law and its jurisdiction is confined to such matters as the Irish Parliament bestow upon it.

The Tribunal therefore declines jurisdiction in this case.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)