

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
EMPLOYER

CASE NO.  
UD155/2012

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

EMPLOYEE  
under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr P. O'Leary B L

Members: Mr R. Murphy  
Ms M. Mulcahy

heard this appeal at Dublin on 21st May 2013

### Representation:

Appellant

Respondent :

This case came before the Tribunal by way of an appeal by the former employer of the respondent against a recommendation of a Rights Commissioner reference r-111631-ud-11/RG

The secretariat of the Tribunal was informed by letter from the appellant's representative on the morning of the hearing that the appeal was now withdrawn.

The respondent together with his representatives appeared for this hearing. In a submission the respondent requested that the appeal proceed. It was their contention that the Tribunal should treat this case as a cross appeal and that the legislation was so worded to permit this.

Having considered this application and a further application for expenses the Tribunal while acknowledging the reasons for those applications found it did not have the jurisdiction to allow the substantive issue to proceed. The Tribunal, however, notes the manner and lateness of the withdrawal by the employer. It finds that the employer acted frivolously and vexatiously in

putting the respondent to the expense of instructing counsel and solicitor in the matter and therefore decided to award the sum of €1500.50 in expenses. This does not include the attendance in the Tribunal of his legal representatives.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

