

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE

claimant

UD150/2012

WT89/2013

Against

EMPLOYER *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms J. McGovern B.L.

Members: Mr M. Carr
Mr T. Brady

heard this claim at Dublin on 15th May 2013

Representation:

Claimant(s):

Respondent(s): No representation or attendance by or on behalf of the respondent

The determination of the Tribunal was as follows:-

Claimant's Case

The claimant told the Tribunal that he commenced employment with the respondent as a warehouse operative on the 25th June 2010. His employment was uneventful until February 2011. As part of his duties he dealt with hazardous goods and chemicals. He raised a number of concerns that he had in the workplace with the Health and Safety Authority. He asked the respondent for boots and he was informed that he would not be reimbursed for them. The Health and Safety Authority undertook an audit of the respondent's premises.

He relayed an incident which occurred in the workplace at the end of March 2011. He was asked to unload a pallet from a double decker trailer. While he was endeavouring to remove a strap from the top of the pallet the pallet fell onto the ground. The pallet contained six cartons of books and the books were not damaged. He was not invited to a disciplinary and there were no complaints from the company that the pallet was delivered to.

Three days after the incident occurred he was informed by RD in the respondent that he was dismissed. He was not told what the complaint was. He was not allowed to bring anyone to a meeting. He was not told about the right of appeal. He was told to collect his belongings and to leave the premises. His employer told him that he could not wait to see him in court.

He never received a written warning. He received one verbal warning for spending too much time on the telephone in work. It was untrue that he received three written warnings and twenty verbal warnings. He did not receive all of his holiday entitlements.

He obtained alternative employment on the 25th November 2011 at a much lesser rate of pay and he continued to work for nineteen weeks. From April 2012 until September 2012 he was unemployed. He returned to College in September 2012 and he currently works one day a week.

Determination

On the uncontroverted evidence of the claimant the Tribunal finds that he was unfairly dismissed. The respondent did not carry out an investigation in regard to the incident that occurred in March 2011. The claimant was not given the right of appeal. The Tribunal awards the claimant compensation of €14,700.00 under the Unfair Dismissals Acts, 1977 to 2007. The claimant did not receive pay in respect of eleven days annual leave and he is entitled to compensation of €836.00 under the Organisation of Working Act, 1997

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

