

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

UD1959/2011

WT785/2011

MN2004/2011

against
EMPLOYER
under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
UNFAIR DISMISSALS ACTS, 1977 TO 2007
ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K.T. O'Mahony B.L.

Members: Mr. D. Hegarty
Ms. H. Kelleher

heard this claim at Cork on 17th May 2013

Representation:

Claimant:

Respondent:

No appearance by or on behalf of the respondent.

Respondent's case

There was no appearance by or on behalf of the respondent.

Claimant's case

The claimant commenced employment with the respondent as a carpenter on 10th September 2006. He had an accident at work and was absent on sick leave for approximately six months but had returned to work about one month before his employment was terminated.

On 15th September 2011 the claimant tried to contact the respondent in order to find out where he was to report for work, as was the practice. However despite repeated efforts he failed to make any contact with the respondent and he subsequently received a P45 in the post. There was no covering letter with the P45. However, at a later date, the claimant received a letter from the respondent informing him that he had been dismissed for poor attendance.

At the date of dismissal the claimant was earning €733.16 gross per week.

Determination

Based on the uncontroverted evidence of the claimant, the Tribunal finds that the claimant was dismissed.

The Tribunal is satisfied that the respondent was properly notified of the hearing. As the respondent did not attend the hearing to offer any evidence to discharge the onus of proof that rests on the employer under s.6 (6) of the Unfair Dismissal Acts, the Tribunal, applying s.6 (1) of the Acts, deems the dismissal to be unfair. Accordingly, the claim under the Acts succeeds. Having heard evidence of loss the Tribunal awards the claimant the sum of € 14,663.20 as compensation under the Unfair Dismissals Acts, 1977 to 2007.

The Tribunal is also satisfied that the claimant was dismissed without notice or payment in lieu thereof and awards a further €2,932.64 under the Minimum Notice and Terms of Employment Act, 1973 to 2005.

The claimant withdrew his claim under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)