

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

UD1784/2011  
WT703/2011  
MN1843/2011

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: Mr. E. Murray  
Members: Mr. D. Hegarty  
Mr. D. McEvoy

heard this claim at Cork on 11th April 2013

Representation:

Claimant:

Respondent:

#### **Respondent's case**

At the date of the hearing the respondent was in liquidation. The liquidator was present at the hearing but did not present evidence on behalf of the respondent and did not contest the evidence adduced by the claimant.

#### **Claimant's case**

The claimant commenced employment with the respondent on 3<sup>rd</sup> September 2007 and earned €350.00 per week. She was on Maternity Leave from 7<sup>th</sup> August 2010 to 3<sup>rd</sup> February 2011 followed by Sick Leave until 2<sup>nd</sup> June 2011. On being certified fit to return to work she contacted her Line Manager to arrange a return to work but was told by him that he was under no obligation to take her back. The claimant took this to mean she was dismissed and requested her P45.

#### **Determination**

The Tribunal carefully considered the evidence adduced at the hearing and are satisfied that there was a transfer of undertakings in January 2010.

The claimant was on maternity leave followed by sick leave up to 2<sup>nd</sup> June 2011. However when she informed the respondent that she was fit to return to work she was told by her line manager that he was not obliged to take her back. The claimant considered this to be a dismissal and asked for her P45.

The Tribunal finds that the claimant was unfairly dismissed and in all the circumstances awards her €2,800.00 under the Unfair Dismissals Acts, 1977 to 2007.

The claimant was dismissed without notice or payment in lieu of notice and therefore the Tribunal awards her €700.00 under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

There was insufficient evidence in relation to the claim under the Organisation of Working Time Act, 1997. Accordingly that claim is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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