

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:  
EMPLOYEE,

CASE NO.  
UD1193/2011  
RP1562/2011  
MN1289/2011  
WT489/2011

against

EMPLOYER  
under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007**  
**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**  
**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005**  
**ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. G. Hanlon

Members: Mr. F. Cunneen  
Mr. J. Dorney

heard this case in Dublin on 21 June 2013

Representation:

\_\_\_\_\_

Claimant(s):

Respondent(s):

No attendance or representation

The determination of the Tribunal was as follows:-

Claims were brought under unfair dismissal, redundancy, minimum notice and working time legislation in respect of the employment of a lorry driver from July 2005 to December 2010 when he was dismissed without notice following his having recourse to the police after he felt that he was not being paid for outstanding holidays and after the respondent had alleged that the claimant had not kept adequate tachograph records.

The claimant's average weekly pay varied from a net €700.00 to €287.00. The Tribunal heard details of him being left short of holiday pay particularly in his final year of employment with

the respondent. It was alleged that he had often worked up to twelve hours per day for the respondent whether or not he worked a full five days every week.

No defence was made by or on behalf of the respondent.

At the beginning of the hearing the Tribunal was told that the claimant would not be proceeding with the appeal lodged under redundancy legislation.

**Determination:**

The appeal under the Redundancy Payments Acts, 1967 to 2007, was withdrawn.

Having heard that the claimant's average weekly pay varied from a net €700.00 to €287.00, the Tribunal finds €550.00 to be the appropriate gross weekly figure for the purposes of assessing the claimant's earnings while employed by the respondent.

Given that no substantial grounds were given by or on behalf of the absent respondent to justify the allegedly egregious termination of the claimant's employment, the Tribunal has no alternative but to allow the unfair dismissal claim. After satisfying itself that the claimant had done his utmost to minimise his overall financial loss at the hands of the respondent by obtaining new employment, the Tribunal unanimously deems it just and equitable in all the circumstances of this case to award the claimant compensation under the Unfair Dismissals Acts, 1977 to 2007, of €28,600.00 (twenty-eight thousand six hundred euro).

Also, the Tribunal allows the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, and awards him the sum of €2,200.00 (this amount being equivalent to four weeks' gross pay).

In addition, the Tribunal allows the claim under the Organisation of Working Time Act, 1997, and awards him the sum of €2,200.00 (this amount being equivalent to four weeks' gross pay).

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

