

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE,
- *claimant*

CASE NO.
RP1057/2011

UD752/2011
MN817/2011

against

EMPLOYER—*first named respondent*

EMPLOYER – *second named respondent*

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K.T. O'Mahony B.L.
Members: Mr J. Browne
Mr F. Dorgan

heard this claim at Kilkenny on 26th June 2013

Representation:

Claimant(s)

Respondent(s) :

The claims under the Unfair Dismissals Acts 1977 to 2007 and the Minimum Notice and Terms of Employment Acts 1973 to 2005 were withdrawn by the claimant's representative during the course of the hearing.

Determination

The claimant was employed as a bar manager by the first named respondent from May 2005. It was common case that there was a transfer of undertakings from the first named respondent to the second named respondent in or around 23 December 2010. There was a dispute as to whether the claimant's employment was transferred to the second named respondent (thetransferee) or terminated at the time of the transfer.

The Tribunal accepts the claimant's evidence that he assisted the second named respondent with the general lay out and working systems in the hotel over a number of days. However the Tribunal also accepts on the balance of probabilities that the claimant's employment was not transferred to the second named respondent.

In those circumstances the Tribunal finds that the claimant was dismissed from his employment by reason of redundancy by the first named respondent and accordingly awards the claimant a lump sum payment under the Redundancy Payments Acts 1967 to 2007 based on the following information:

Date of Birth:	22 March 1982
Date of commencement of employment:	31 May 2005
Date of termination of employment:	19 December 2010
Gross weekly pay:	€466.05

This award is made subject to the claimant having been in insurable employment under the Social Welfare Acts during the relevant period.

The claim against the second named respondent under the Redundancy Payments Acts 1967 to 2007 is hereby dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

