

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
EMPLOYEE-*Claimant*

CASE NO.  
UD726/2012

MN540/2012

against  
EMPLOYER - *respondent*

under

### MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly BL

Members: Mr. D. Winston  
Mr G. Whyte

heard this claim at Dublin on 12th July 2013

Representation:

\_\_\_\_\_

Claimant(s) : In Person

Respondent(s) : Neil M Blaney & Co, Solicitors, Unit 3 Strand Road Shopping  
Centre, Portmarnock, Co Dublin

### Summary of Case

The claimant worked as an apprentice plumber for the respondent company from 2007. He had successfully completed Phase 6 of his apprenticeship programme with FAS. He was in the final phase of his apprenticeship when, following a three month block release period with FAS he returned to work for the respondent on 20 March 2012 reporting to a site in Fairview. The Tribunal heard evidence that the claimant reported to this site without a hard hat which is an obligatory requirement on entering building sites. The claimant had misplaced his hard hat on his period of block release and was provided with a replacement on his return to work at the Fairview site. On the following day the claimant reported for work to a site in the Dublin 2 area again without a hard hat. It was accepted by both parties that a heated conversation occurred between a company director known as (P) and the claimant concerning his reporting for work without a hard hat. Following the conversation (P) gave the claimant his own hard hat and the claimant went onto the site.

During the course of the conversation there was an indication that some employees had been working on the Fairview site without wearing hard hats and (P) subsequently checked this matter with a fellow director. It transpired that all employees on the Fairview site were wearing hard hats.

The Tribunal heard further evidence from the claimant that later, on the day of 21 March 2012 he began to receive abusive phone calls from work colleagues stating that he had brought trouble to their door. He felt he was being attacked and became upset and went home around 3pm on that day. He visited his doctor that day and never subsequently returned to work. The Tribunal heard further evidence from (P) that he subsequently made a number of unsuccessful efforts to contact the claimant by telephone over a number of days. This was denied by the claimant who stated that (P) never made contact with him after 21 March 2012.

The claimant confirmed that he has been in receipt of illness benefit since the termination of his employment apart from a three week period when he worked with an alternative employer.

### **Determination**

The Tribunal carefully considered the evidence adduced and finds no evidence that the claimant was dismissed from his employment. It is clear from the evidence that the claimant left his employment because he was upset about phone calls he had received in relation to health and safety matters. The Tribunal finds that the claimant's reaction and behaviour was unwarranted in the circumstances. The Tribunal also notes that an offer of re-engagement was made to the claimant on the day of the hearing by the respondent but this offer was rejected by the claimant.

The Tribunal finds that the claims under the Unfair Dismissals Acts 1977 to 2007 and the Minimum Notice and Terms of Employment Acts 1973 to 2005 fail and are hereby dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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