

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE – **Claimant**

UD357/2012

against

EMPLOYER - **Respondent**

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan BL

Members: Mr J. Hennessy
Mr O. Wills

heard this claim at Clonmel on 23 July 2013

Representation:

Claimant:

In person

Respondent:

No appearance by or representation on behalf of the respondent

The determination of the Tribunal was as follows:

This being a claim of constructive dismissal it fell to the claimant to make his case

Determination:

Being satisfied that the respondent was properly on notice of the hearing the Tribunal proceeded to hear the claim. In circumstances where the respondent was not in a position to give evidence the Tribunal accepts the uncontroverted evidence of the claimant, substantiated by the decision of the Rights Commissioner under the Payment of Wages Act, 1991, that the respondent had ceased paying the claimant's wages despite his still performing his duties. The claimant resigned

from his employment on 14 August 2011 and the Tribunal is satisfied that failure to pay wages is such a fundamental breach, going to the root of the contract, such as to justify a claim of constructive dismissal. Accordingly, the claim under the Unfair Dismissals Acts, 1977 to 2007 must succeed and the Tribunal awards €45,846-00.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)