

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE - *claimant*
against

UD963/2012
MN502/2012

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 O. Madden B.L.

Members: Mr J. Goulding
Mr C. Ryan

heard this claim at Dublin on 15th July 2013

Representation:

Claimant(s): Mr Bill Wall, Operative Plasterers' & Allied Trades'
Society, Of Ireland, 72 Shantalla Road, Beaumont, Dublin 9

Respondent(s) : The owner of the respondent

The determination of the Tribunal was as follows:-

At the outset of the hearing the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 was withdrawn.

Summary of Evidence

Dismissal was not in dispute in this case. The claimant commenced employment as a cleaner in one of the respondent's hotels on the 20th May 2011. The respondent had four other properties.

The claimant maintained that when she informed her line manager that she was a member of a trade union she was dismissed. The claimant could have worked thirty five hours a week between June and September 2011 but at Christmas the hotel was not busy. Employees were assigned work based on room occupancy.

Some employees complained about the claimant. There were no issues with the claimant's

performance and she reported for work on time. In October/November 2011 the claimant's hours were reduced dramatically. The owner of the respondent maintained that he did not know that the claimant was a member of a trade union prior to her dismissal and it did not make any difference to him. The claimant did not receive a contract of employment.

The claimant was always aware that the work was seasonal and she was informed of this verbally. The respondent had a disciplinary and grievance process in place but did not have documentary evidence for the Tribunal.

When the claimant spoke to her line manager regarding public holidays in December 2011 the line manager tried to explain to her that it was a business. Her line manager was angry when she told her she was a member of a trade union. The claimant could not recall when she became a member of a trade union; it was some time in 2011. She paid a weekly union subscription.

The claimant, accompanied by her partner met the respondent's accountant on the 6th January 2012 regarding payment for public holidays. The owner then summoned the claimant to a meeting in the hotel at 7pm. She was informed that she was no longer required to work at the hotel due to a downturn in business.. She was not informed of complaints by staff. The owner made it clear to the claimant that she was not dismissed for being a member of a trade union. The claimant was unemployed from January 2012 until October 2012. She obtained alternative employment in October 2012.

Determination

In the absence of any compelling evidence illustrating both trade union activity and membership the Tribunal find that the claimant failed to meet the minimum twelve months as required by the Unfair Dismissals Acts, 1977 to 2007 and the claim fails. The claim under the Minimum Notice and Terms of Employment Acts 1973 to 2005 was withdrawn and no award is being made under this Act.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)