

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
Employee

CASE NO.

MN160/2008

against

Employer

under

### MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J. Fahy

Members: Mr. B. O'Carroll  
Ms H. Henry

heard this claim at Galway on 23rd October 2008

Representation:

\_\_\_\_\_

Claimants(s) :  
In Person

Respondent(s) :  
In Person

The decision of the Tribunal was as follows:-

#### **Claimant's Case**

The claimant gave evidence that she started working for the respondent company in September 2007. She was employed in telemarketing and worked from 2 pm until 9 pm Monday to Friday. She worked a total of 32.5 hours per week. In November 2007 she was offered a FAS course and informed her team leader that she could no longer work full time with the company. She requested to be allowed work part-time until the completion of her FAS course at the end of May 2008. Her team leader (Team Leader 1) acceded to this request and her new working hours were from 5pm until 9pm Monday to Thursday and from 1pm until 7pm on Fridays. The claimant was informed that this new arrangement would remain in place until the end of May 2008. This was not given to the claimant in writing.

The claimant then gave evidence that in mid January 2008 the company changed its opening hours from 2pm – 9pm to 11am – 7pm. She was told then by two team leaders (Team Leader 2 and Team Leader 3) that her working hours could remain the same. On the 28<sup>th</sup> January 2008 the claimant was

informed by (Team Leader 4) that it was not financially viable for the company to employ part-time employees. The claimant asked if she was being fired and (Team Leader 4) replied 'yes'.

In reply to questions the claimant denied that she was told that on a number of occasions that the temporary arrangement where she worked part-time hours was to finish on the week ending 18<sup>th</sup> January 2008.

### **Respondent's Case**

The Financial Controller for the company gave evidence that the contract of employment given to the claimant was for a full-time position. Part-time positions were being phased out as it was not economically successful. The decision to phase out part-time positions was taken by a company director. The minimum number of weekly hours on offer from the company is now 32 hours and contracts specify that all positions are full-time. The company has no employees working only 17 hours per week.

Under cross examination the witness stated that he was not aware that the company had advertised for part-time employees since January 2008.

In reply to questions the witness gave evidence that he was not aware of the change that occurred to the claimant's working hours in November 2007. He was not present on the day the claimant finished working for the company and there were no minutes of the meeting that occurred on that day. He was not in a position to disagree with or contradict the claimant's evidence as he was not present for any arrangements. He agreed that the claimant was not guilty of any misconduct or negligence.

### **Determination**

The Tribunal having carefully considered the evidence is satisfied that the claimant has given incontrovertible evidence before the Tribunal that she had an agreement with her team leader that for the duration of her FAS course (November 2007 to end of May 2008) she would be permitted to work from 5pm - 9pm Monday to Thursday and from 1pm - 7pm on Fridays. On the 28<sup>th</sup> January 2008 the claimant was told that the company had changed this arrangement and had advised that part-time employees were no longer financially viable. The claimant was dismissed from her employment on the 28<sup>th</sup> January 2008.

The Tribunal determines that she had not received notice of termination of employment. Accordingly the Tribunal awards the claimant the sum of €225.00 being the equivalent of one week's pay under the Minimum Notice and Terms of Employment Acts 1973 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

