

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIMS OF:

CASE NO.

Employee  
–Claimant

UD1519/2008  
RP1364/2008  
MN1463/2008

against

Employer - **Respondent**

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007**  
**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**  
**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1967 TO 2001**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. N. O'Carroll-Kelly B.L.

Members: Mr. R. Murphy  
Mr. N. Broughall

heard this appeal at Dublin on 28 April 2009

**Representation:**

Claimant: In person

Respondent:  
XXXX Managing Director of the respondent

The determination of the Tribunal was as follows:

The claimant, who at all times worked as a carpenter, was employed by a company owned by a third party of which the managing director (MD) of the respondent was also an employee from August 2005. The third party and MD then registered a limited company (LC) on 15 September 2005. LC began trading in January 2006 and the claimant was transferred to this company. MD then registered the respondent, in which the third party has no involvement, on 11 April 2007 and the respondent began to trade on 25 May 2007. The claimant continued to work for LC until June 2008 when work began to dry up. At this point the claimant sought to leave LC and to join the respondent. LC was dissolved on 25 July 2008. The claimant was out sick on 17 and 18 November 2008, work had dried up for the respondent and on 21 November 2008 MD sent a text message terminating the claimant's employment. All other employees were dismissed at around this time. The claimant, who was paid a week arrears, received pay for all time worked less a deduction for excess leave.

**Determination:**

The Tribunal is satisfied that there was no Transfer of Undertakings when the claimant moved from LC to the respondent in June 2008. Accordingly there was no continuity of employment from LC to the respondent. The Tribunal is further satisfied that, despite the manner in which the termination was effected, that the claimant was dismissed by reason of redundancy. As all the employees were let go around the same time the question of unfair selection does not arise. In those circumstances the claim under the Unfair Dismissals Acts, 1977 to 2007 must fail. As there was no continuity of employment from LC to the respondent the claimant does not have the requisite two years service in order to qualify for a lump sum payment under the Redundancy Payments Acts, 1967 to 2007. Accordingly the claim under those Acts must also fail. Loss having been established, the Tribunal awards €833-00, being one week's pay under the Minimum Notice and Terms of Employment Acts, 1967 to 2001

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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