

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:  
Employee  
MN111/2008

- *claimant*

CASE NO.  
UD111/2008,

Against

Employer

- *respondent*

Under

**UNFAIR DISMISSALS ACTS, 1977 TO 2001**  
**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. S. Ó Riordain B.L.

Members: Mr. D. Hegarty  
Mr. D. McEvoy

heard this claim at Waterford on 17th November 2008 and 11th and 13th February 2009

### **Representation:**

Claimant : Mr. Kenneth Cunningham, Newell Quinn Gillen, Solicitors,  
Parade House, South Parade, Waterford

Respondent : Mr. John Farrell, IBEC, Confederation House, Waterford Business Park,  
Cork Road, Waterford

The determination of the Tribunal was as follows:

### **Respondent's Case**

The human resources manager told the Tribunal that he made the decision to dismiss the claimant on grounds of gross misconduct due to an act of sabotage on the 14 November 2007.

The witness was contacted at around 18.00 on the 14 November 2007 by a supervisor who informed the witness of a serious incident in the wastewater treatment area. The witness accompanied the supervisor to the area. The supervisor explained to the witness what he had found when he first arrived to check the area.

There was still a small amount of water on the yard at this time. The hose in the wastewater treatment area was rigged in such a way that one end of the hose was in the holding tank while water was pumped from the opposite end of the hose to the main public drainage system. The system was bypassed deliberately. The witness immediately emailed the plant manager, the operations manager and the health and safety manager (team leader).

The witness knew the matter was serious and must be investigated and arrangements in this regard commenced on 15 November 2007. Only a number of people in the plant knew the operations of the wastewater treatment system. The witness decided it was best to interview all employees involved in the wastewater treatment area of the plant. The operations manager conducted the investigation and a number of employees were interviewed including the employee who worked the opposite shift to the claimant, an electrician at the plant and a maintenance person at the plant. Statements were also taken. At the claimant's interview he mentioned another employee who he felt should also be interviewed. Subsequently, this employee was interviewed as were all staff members later identified by the claimant.

A number of photographs were submitted to the Tribunal. The human resources manager stated one of the photographs showed that the hose would have to be put underneath the cladding to cause flooding in the yard. The operations manager reported to the witness regarding the investigation into the incident. From the investigation it was found that the placing of the hose beneath the cladding in the same manner as previously rigged was a deliberate act. A decision was taken to suspend the claimant pending the outcome of the investigation. The claimant was suspended with pay on the 26 November 2007. The other employees were excluded from the investigation at this point as the employee working on the opposite shift to the claimant had left work at 16.30 and the electrician and maintenance man were elsewhere in the factory at the time of the incident.

The claimant was provided with a copy of the statements taken. The claimant stated that he was not in the wastewater treatment area where the incident had occurred. The claimant had union representation at this meeting and two issues were raised. The first issue raised was that the respondent did not interview a certain employee. This employee was subsequently interviewed.

The second issue that arose was the flow rate of the transfer pump and what time it would take the water to travel from the wastewater area to the main drainage system. A replica trial was conducted on the 28 November 2007 using a container of inert water and a hose placed under the cladding. It took approximately twenty-three minutes for the water to reach the main drainage system. The witness was present when the replica test was carried out.

The human resource manager commented that while the main issue was what occurred on the 14 November 2007 there was a previous incident in early 2007, which the claimant was involved in. Part of the system was bypassed on this occasion. The incident in February 2007 was slightly different in that the water was pumped from one area to another within the plant. The health and safety leader had given an instruction and the claimant failed to carry out that instruction. The claimant received a verbal warning on that occasion.

A meeting was held with the claimant on the 30 November 2007 when the investigation was complete. The claimant had union representation and was provided with a copy of the photographs from the replica test and the time that it had taken for the water to reach the drain. An exhaustive investigation had been carried out and from this investigation an opinion was formed that the claimant had deliberately caused this incident and this was the basis of the dismissal. The claimant was informed that he was dismissed but could appeal the decision if he wished.

During cross-examination the witness confirmed when he observed the yard on the 14 November 2007 he could clearly see remnants of water on its surface.

In reply to questions from the Tribunal the witness stated that it would take two or three minutes for

the hose to be placed underneath the cladding. Without experience of operations in the wastewater area it would take substantially longer to replicate the incident.

There were a number of statements taken in relation to the incident. Each person gave a statement of where they were in the plant and what they were working on and copies of these were given to the claimant. When asked if the witness had sought independent verification of the statements by the other staff members the witness replied that he accepted the statements. In the case of the claimant he was conscious of his role in the area and of the previous incident in which a tank had been bypassed. He accepted that there was no written record of the previous incident and that the verbal warning given had been in relation to abusive language. The claimant apologised for his involvement in this incident.

The plant and production supervisor gave evidence to the Tribunal. He had 22 years service with the respondent. On the 14 November 2007 when checking the wastewater treatment area at about 18.00 as part of his duties, he noticed that a large volume of water was running beneath the cladding. Half of the area was in darkness and when he switched on a light he saw that the pump was immersed. Water was being sucked from the rinse tank and pumped out underneath the cladding. The witness knew this was incorrect. He attempted to stop what was happening but did not know how to switch the system off. In the end he had to lift one end of the hose from the tank and place it on the floor.

The plant and production manager telephoned the health and safety manager but his call was unanswered. He then telephoned the operations manager. The witness spoke to the claimant who was on the 14.00 to 22.00 shift on the wastewater treatment area. At that time the claimant was working on the clean line. The claimant said he did not know anything about the incident and he had not been in the area all day. The claimant suggested that the witness speak to his colleague working the opposite shift. The claimant and the witness went to the wastewater treatment area. The claimant coiled up the hose. There was very little discussion between them but the witness told the claimant that the incident was a contravention of the respondent's waste treatment licence.

The witness confirmed that he had contacted the human resources manager and accompanied him to the wastewater treatment area. The witness provided a written statement a number of days later.

During cross-examination it was put to the witness that if the claimant's colleague were in the wastewater treatment area then the claimant would be working on the clean line. The witness replied, "not necessarily". He indicated that experience of the wastewater area would be needed to rig the hose the way it was done.

The witness did not know the composition of the water in the tank but he knew that processed water "could not be good."

The operations' manager who investigated the incident gave evidence. He said there were two cleanline operators per shift trained in the operation of the wastewater system, of which the claimant was one.

He described the claimant with whom he had good working relations as a person with anger management issues. Up to November 2007 the claimant had several "run-ins" with supervisors, colleagues and other staff and as a result of an incident earlier that year he was issued with a warning for his behaviour. That behaviour was linked to an incident where he

bypassed a necessary process in the discharge of waste product and for his verbal abuse towards another employee. While accepting that the claimant was not accused of sabotage on that occasion the witness gave him the benefit of a “large doubt”. The claimant apologised for his involvement but was aware of the disciplinary consequences of deliberately allowing unauthorised drainage to occur.

In the run-up to the spillage incident on 14 November 2007 the claimant had complained about the overtime given to his colleague, the other cleanline operator. That colleague and the claimant did not get on and their working time on that day overlapped in both time and space for several hours. On occasion the claimant had run ins with him as supervisor, with the health and safety leader and with administrative staff. Previously there had been unexplained floods following “rants” by the claimant.

The operations manager set about investigating this spillage incident. This investigation included interviews and taking statements from at least seven members of staff, including the claimant, who were possibly connected with or could have had knowledge of this spillage. The perpetrator had to have knowledge of the operation of the system and the four people in this category were the two cleanline operators (including the claimant), the electrician and the maintenance man. The witness was also involved in observing the results of a trial spillage similar to what was observed to have happened.

The operations manager explained and outlined the seriousness of the situation, including the fact that it was regarded as gross misconduct that could lead to dismissal, to the interviewees before the interviews commenced. Those interviews were conducted between 19 and 28 November and all participants were invited to have witnesses and representatives with them. Their statements were read back to them and signed by them. The claimant was represented by his shop steward. The claimant said he was working in the cleanline area at the time and denied carrying out the sabotage.

Following his initial interview the witness did not eliminate the claimant from further investigation. This was in contrast with the operations’ manager attitude to most of the other interviewees as he found that their statements generally “stacked up”. The claimant’s colleague in the cleanline area was off duty when the incident happened and statements of the electrician and maintenance man as to their work on mechanical/electrical issues at the time was backed up by work records. Statements by witnesses in relation to possible release of water earlier in the day did not accord with the timing of the post 17.00 hours timing of the incident.

By 26 November the main focus of this investigation was on the claimant. The witness along with the human resources manager again met with him and his shop steward. The claimant was provided with copies of all the statements and was told he was suspended pending a completion of the investigation. The trial that took place on 28 November showed that the entire back yard flooded in sixteen minutes when the wastewater rinse tank contents were released. That spillage took twenty-three minutes to enter the main drainage system. The rate of flow was 50 litres per minute. The following day the witness reviewed the report of the relevant security officer’s account of his observations on 14 November. That account did not include any reports of flooding when he checked the wastewater treatment plant area at 17.27 on 14 November.

All the evidence was then reviewed with the human resources manager. Regard was also had to the previous occasion on 27 February 2007 in which the claimant bypassed the system and abused the health and safety leader and received a verbal warning. The witness together with the human resource manager met the claimant and his representatives on 30 November where the claimant was

given the additional material and informed of his immediate dismissal.

The operations manager said, in cross examination, that this spillage from the rinse tank saved the general operators time and effort as it made their work easier. The witness said that evidence by two witnesses in relation to possible earlier release of water that day was not sustainable; in one case water could not have flowed uphill from the wastewater treatment area and, in the other case, there was no certainty by the witness as to date. The witness was certain that this spillage was not connected to water flowing from a filter system in the same area. The assembled evidence left the operations' manager in no doubt that this spillage was directly linked to the claimant.

The health and safety manager (team leader) for the site gave evidence. He said he was involved in the incident in 2007 when the system was bypassed by the claimant and there was a breach of the company's licence and procedures in the discharge of waste material. The witness reported the verbal abuse he received from the claimant on that occasion and that resulted in the issuing of a warning against him. This witness was again involved in the current spillage incident, which was reported to the relevant authorities. As part of an investigation into that incident the witness contacted the head of the external company contracted to provide security for the plant. He was satisfied that the security officer on duty on the evening of 14 November filed a correct report on his patrols which included a check on the waste water treatment plant. He spoke to the security officer who told him that he saw no discharge of water in the wastewater treatment area that afternoon. The security officer's report on that day, downloaded from computer, showed that he was in the wastewater treatment area at 17.27

The witness found it strange that others reported seeing water in that area at 15.30 that day while he was in the same area one hour later and "everything was fine" and there was no discharge of water. The witness indicated that he had a good working relationship with the claimant. The witness concluded by stating the respondent was not prosecuted for this spillage incident

A supervisor for the group responsible for security at the respondent's plant gave evidence. He had prepared a short typed report on a security patrol taken in that plant on 14 November. That report was based on a former officer's account of his patrol there and included electronically recorded timings at named control points. The electronic record showed that the security officer had clocked in at the wastewater treatment area at 17.27 and had noted nothing wrong. This security officer was not called to give evidence as he had since left the country.

The respondent company's plant - general manager gave evidence of the appeal. The appeal hearing on 12 December was attended by the claimant, a trade union official, and two representatives together with a note taker. Following that hearing the general manager (then ISC Director) paused for reflection on this case. In reviewing all the available evidence, statements (including those identified by the claimant as having sufficient knowledge to carry out the sabotage), and the results of the trial the managing director said it was beyond dispute that a deliberate act of sabotage was committed in the wastewater treatment plant on 14 November 2007 that exposed the company to prosecution and the withdrawal of its licence. The general manager discounted the involvement of all possible employees for various reasons from this act apart from the claimant. He concluded there was no spillage in that area at 17.27 and accepted a supervisor's account that he came upon flowing effluent in that area shortly after 18.00. The managing director reasoned that the person responsible for that flow must have had a detailed knowledge of the pumps, pipes and procedure needed to commit such an act within a short time to almost drain out the rinse tank. The witness was personally familiar with the work

involved and he was satisfied that the claimant had the necessary expertise, the time and the opportunity to carry out the act.

While conceding that the claimant was not seen by anyone committing the act the managing director satisfied himself that the claimant was indeed responsible for it. In considering all the circumstances including the lack of direct evidence against the claimant the managing director found it reasonable to conclude that the investigation and the decision to dismiss the claimant was correct and fair. He regarded the claimant's role in this incident as "gross misconduct of the highest order". The claimant's previous involvement in a similar instance was also taken into consideration.

The general manager conveyed his response to the claimant by letter dated 19 December 2007 indicating that the decision to dismiss was upheld.

The witness in cross-examination gave details of his previous work in the respondent company and he confirmed that the company had not been reprimanded by the EPA in relation to the spillage. He felt that the investigation had been thorough and fair, in particular the arranging of the trial and the taking of additional statements at the claimant's request.

### **Claimant's Case**

A number of witnesses who had made statements for the investigation were called by the claimant's representative.

The facilities manager gave evidence that he noticed at around 15.30 on 14 November that the rinse tank, which is no more than 150cms in height, and holds 800 litres of liquid contained water up to 60cms from its top. He commented that this tank could discharge water at 50 litres a minute. At that time he did not observe any water running from it nor did he meet anyone in that wastewater treatment area. This witness who was involved in the investigation signed a statement on 28 November about his input into this situation.

The claimant's colleague in the cleanline area gave evidence that he commenced work at 06.00 on 14 November and finished at 16.30 said he did not hear the claimant say anything to him while both were present in the afternoon. He was washing out barrels into a reaction tank at the time and described that afternoon's work as busy. By the time he clocked out he had not seen any sign of a water spillage in the wastewater treatment plant area. The witness who also signed a statement as part of the investigation said he had no involvement in the spillage from the rinse tank.

Another employee signed a statement on 20 November on this incident. He told the Tribunal that he saw water flowing out of a back gate like a mini stream at around 15.00 on 14 November. This caused him little concern as he had seen similar flows before. While he could not pinpoint the source of that water he was sure it was coming from the wastewater treatment plant and also lying in the gravel area of the yard. This witness said he had no particular special friendship with the claimant or the next witness. He signed a statement at the time because he had seen the water but he was not sure who had asked him to make the statement. He thought he may have discussed it with the claimant and others but he had had no private conversation with the claimant. He indicated that he had signed the statement but that a note at the end of the statement to the effect that the water was "past the centrifuge ramp and the back wall of the waste treatment area on the gravel area" was subsequently added and was not part of his signed statement. He maintained his

view that the water was coming from the wastewater area. The health and safety leader indicated that he had made this addition by way of clarification.

The next witness indicated that he had nineteen years experience with the company and had left last year. At the time he had been asked by the claimant to approach management about this spillage. His signed statement had made it clear that everything was not 100% clear but he was certain he saw water flow in the relevant area either on the Wednesday (14<sup>th</sup> November – the date of the incident) or Thursday (15<sup>th</sup> November) at around 15.30 - either after or before 16.00 - and commented that this discharge was not unusual and therefore did not report it. He did not notice any water on the gravel area nor any hoses, pipes or gushing water in the wastewater treatment area. The operations manager said that washing of the filter press which takes place inside the door of the wastewater treatment area could have led to a discharge of water on Thursday 15<sup>th</sup> November and it would but it would involve residual rather than flowing water. There is no specific time schedule for washing the filter press; it is done when necessary.

A toolmaker employed at the factory described how the claimant approached him at around 17.00 on 14 November 2007 seeking medical treatment for a splash on his chest. This witness who had first aid knowledge advised the claimant to have a cold shower and following that he applied cream on that burn some thirty minutes after the initial approach. The witness filled in and submitted an accident report on that incident to the respondent citing the date but not the time. However he did not submit a statement nor was he involved into an investigation into the spillage incident. Some two to three months subsequent to the claimant's dismissal he approached this witness in relation to this affair. The witness indicated that he had reminded the claimant about the incident when they met recently and the reason why he had not mentioned it at the time was because he thought that the discharge had happened earlier in the day.

The claimant then gave evidence. He indicated that he was employed as a general operative at the respondent's plant. Prior to the events of November 2007 he had been subjected to a disciplinary sanction in the form of a warning in March of that year. That warning was related to an incident where the claimant accepted responsibility for bypassing a certain process in the performance of his duty. He took that warning seriously and learned from it.

Prior to commencing a standard shift from 14.00 to 22.00 in the clean line area of the plant on 14 November 2007 the witness undertook up to three hours overtime work. From 11.00 up to 16.30 that day his work coincided with that of another colleague who he described as not one of his best mates. He commented to that colleague in the wastewater treatment area at 14.15 about the lack of acid in one of the tanks but got no response. The witness took his first break of that shift around 15.50 in the canteen where he met "the usual group" and returned to his duties in the cleanline area where he had parts to etch, coding and related paper work tasks.

At about 17.00 the witness suffered a splash and burn on his chest as a result of his work. While he was wearing some protective clothing those garments were not sufficient to prevent this accident. He met a first-aider beside the cleanline area who told him to have a shower and to change his clothes. The first aid member of staff got the key for the first aid room. Following that, ointment or gel was rubbed onto the affected area. The witness felt his injury did not require hospital treatment. That mishap and its aftermath were over by approximately 17.40 when he returned to the cleanline area. The claimant's work pattern was not compromised as he had been attending to a task that did not need much manual input. His worksheet for that time showed that he was on a constant job for two hours from 16.30. The witness commented that a filter process could wash

outwater from the treatment plant but that this was not a common occurrence.

A supervisor approached the claimant no later than fifteen minutes subsequent to his return to work and alerted him to a spillage in the wastewater treatment plant area. Upon entering that area he observed water flowing down the yard. That spillage turned out to be effluent from the wastewater rinse tank. These two men dealt with that spillage and then the claimant recommenced his normal work. The supervisor contacted the respondent's human resource manager and also said that this incident had to be officially reported. In referring to the tank, pumps and spillage the witness stated that it would only take a minute for someone with the appropriate knowledge to interfere with that system. He added that he was not involved in that spillage.

In common with several other members of staff the operations' manager interviewed the claimant about this spillage. The witness signed a brief statement. While he did not "point the finger" at anyone in relation to this spillage the claimant suggested and named possible individuals the respondent might like to interview. Following another meeting with the respondent on 26 November the claimant was suspended pending a further investigation into his role regarding the spillage. The witness who knew the situation was serious by that time "never thought for one minute that anything was going to come out of this". The outcome of two further meetings concluded with his dismissal on 30 November. The witness who was "shocked and devastated" at losing his job exercised his right to appeal that decision. That appeal upheld the respondent's decision.

The claimant accepted that he had acted incorrectly during the incident in February 2007 and that he had received a verbal warning. He had taken the warning seriously and, after forty-two years service, he had not deliberately sabotaged the plant as alleged.

The claimant was cross examined as to why he had omitted, throughout the investigation and disciplinary process conducted by the respondent, to refer to his accident and the resultant first aid treatment. He also omitted to mention it at his appeal hearing on 12 December. He said that it was the first aid staff member, who had left the respondent's employment some month's ago, who had reminded him of it when he recently met him. The claimant regarded the whole instance of alleged sabotage as crazy and commented he had nothing to gain from being part of it and was certainly not involved in it. The claimant also explained his work in the clearline area in detail. He denied the act of sabotage and said that it could have easily have been done by seven or eight people - three or four maintenance personnel in addition to the staff from whom statements had been taken.

Evidence of loss and of the effect of dismissal on his life since was given.

## **Determination**

This case involved three days of hearings with several witnesses called on behalf of the respondent and the claimant. The Tribunal itself took some further period of time in consultation considering the issues involved with a view to arriving at this determination.

The respondent submits that the claimant was reasonably dismissed, following a fair and comprehensive investigation, disciplinary and appeal process, for an act of sabotage constituting gross misconduct. The basis of the dismissal was set out in the human resources' manager's letter of 30 November 2007.



The claimant denied he was responsible for sabotaging the company or had a motive to do so and he has pointed to the fact that there was no direct evidence linking him to the incident and he has asserted that his dismissal was improperly based on unsubstantiated and contradictory evidence and on a prejudiced approach by the company.

The Tribunal considered the nature of the incident that occurred on 14 November 2007. The Tribunal agrees with the respondent that the deliberate pumping of liquid from the rinse tank to the public drains constituted gross misconduct for which, unless there were compelling reasons to the contrary, dismissal would be well within the band of penalties likely to be imposed by a reasonable employer. The Tribunal considers that this is the case whether the act arose by way of deliberate sabotage or otherwise, e.g. with a view to possibility reducing a workload. This could not have happened innocently and employees in a company such as the respondent's are aware of the licensing and environmental protection implications of such an unauthorised discharge of potentially toxic liquid into the public waterways system.

Once the unauthorised discharge occurred, two fundamental questions arose for the respondent company. When did it happen and who might have done it. While there was evidence of two witnesses, which suggested that there was water outside the rinse room at 15.00 and 16.00 that day, the Tribunal considers that the evidence of the HSO to the effect that there was no discharge from the area at 16.30 is especially credible. The Tribunal is also disposed to accept, in a situation where the security officer visited the building at 17.27 and reported nothing amiss, that the unauthorised pumping of the liquid commenced subsequent to that time. While it would have been preferable for the security guard to have been present (he had left the jurisdiction) the Tribunal has no reason to disbelieve the evidence on oath by the HSO and the manager of the security firm that they both spoke to the security officer at the time who confirmed to them that there was no water coming from the building at the time of his visit at 17.27. The Tribunal, in the circumstances is satisfied that the conclusion of the investigation that the incident commenced after 17.27 (it was discovered at 18.00) was reasonable.

Turning now to the more substantive question as to who might have affected the irregular discharge and the investigation of the incident. It is clear on the basis of the evidence that the nature of the incident was such that the perpetrator had to possess a degree of knowledge of the operation of the pump and related electrical system and the physical lay out and lightening of the relevant building. In such circumstances, the Tribunal considers that the approach adopted by the investigators of identifying, for interview, the two clean line operators (including the claimant) who also worked on a daily basis in the relevant building was eminently reasonable and, equally, that the further selection of the electrician and plumber who carried out maintenance work to machinery in the building was sensible.

In a situation where the evidence strongly points to the irregular discharge of liquid in the rinse tank as having commenced post 17.27 and to its discovery at 18.00 added impetus is given to the need for expertise by the perpetrator. The evidence supports the view that both the plumber and the electrician had alibis in that they were working elsewhere and that the other clean line operator had gone home around 16.30. The Tribunal, in the circumstances, considers that the natural focus of suspicion must reasonably have fallen on the claimant leading to his suspension. In a situation where the claimant had previously by passed the normal systems in operation in the relevant building this suspicion was heightened. While it is clear that two of the investigators SX and HSO had previous work related difficulties and may have had some expectation that the sabotage was carried out by the claimant, the Tribunal is satisfied that the organisation of the investigation and

the manner in which it was carried out was fair and was not prejudiced.

The evidence also shows that, in the disciplinary process, every effort was made by the company to examine every alternative proposed by the claimant and that the testing of the liquid flow, at the instigation of the claimant, placed the event most likely in the post 17.27 time frame. It is also clear that all the normal substantive and procedural rights associated with disciplinary proceedings were fully respected by the respondent. The Tribunal was also favourably impressed by the evidence given by the general manager in relation to the logic and fairness of the review of evidence and in the appeal process.

The Tribunal wishes to make some brief comments on the evidence given by the claimant and by a former employee in relation to the burn sustained by the claimant and the evidence that he was fully occupied by events surrounding this in the period from 17.00 to 17.30 on the day of the incident. The Tribunal finds it difficult to understand why the claimant did not refer to this during the investigation, dismissal or appeal process. If the evidence of the claimant and the former employee to the Tribunal as to time frame were generally correct, it does not result in the exclusion of the claimant from consideration given his expertise and knowledge of the area.

The function of the Tribunal in a case such as this is well established in law. The Tribunal is not required to determine whether the claimant did or did not carry out the alleged act of sabotage. The Tribunal function is to establish whether the respondent has proven that the dismissal was not unfair, having regard to the terms of the Unfair Dismissal Acts, 1997 to 2001. For this to be established the Tribunal must be satisfied that the alleged act of sabotage was fully and fairly investigated by the respondent, that the investigation and disciplinary process respects the rights of the claimant, that the conclusion that the offending act had been perpetrated by the claimant was reasonable on the balance of probabilities and that the dismissal was a proportionate response within the band of disciplinary sanctions which would be imposed by a reasonable employer.

The Tribunal is satisfied on the evidence that the conclusion reached following a comprehensive and fair investigation was reasonable on the balance of probabilities. The Tribunal is also satisfied that the decision to dismiss, following a disciplinary and appeal procedure in the respondent's rights were respected, was well within the band of sanctions which a reasonable employer would impose.

The Tribunal in the circumstances determines that the claimant's appeal under the Unfair Dismissals Acts, 1977 to 2001 fails.

The appeal under the Minimum Notice and Terms of Employment Act, 1973 to 2001 also fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

(CHAIRMAN)

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