

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

Employee
- *appellant*

CASE NO.

UD1447/2008

against the recommendation of the Rights Commissioner in the case of:

Employer - *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mrs. M. Quinlan

Members: Mr. P. Pierce
Mr. P. Trehy

heard this appeal at Dublin on 17th June 2009

Representation:

Appellant: Derek Mullen, CPSU, 19/20, Adelaide Road, Dublin 2

Respondent: Ms. Cathy Maguire BL instructed by:
Lorraine Williams, Chief State Solicitors Office, Little Ship Street,
Dublin 8.

This case came before the Tribunal by way of an appeal by the employee against the decision of a Rights Commissioner - r-063662-ud-08.

The decision of the Tribunal was as follows:

Background:

The appellant commenced employment with the respondent on October 30th 2006 on a 1-year probationary contract of employment, which she had signed. On October 17th 2007 letter informed her that she had not met the conditions of her employment, her appointment would not be confirmed and her employment would terminate on October 26th 2007.

Preliminary Issue:

The respondent's representative raised the preliminary issue that as the appellant did not have 1 year's service, the Tribunal did not have jurisdiction to hear the case in its entirety.

Preliminary Determination:

The submission by the representative for the respondent in this case stated that under the provisions of the probationary contract of employment there are specific clauses providing that the contract shall be for a period of one year from the date of commencement. However, provision is also made that the probationary contract of employment may be terminated at any time prior to the expiry of the contract by either side in accordance with the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

In the circumstances therefore the Tribunal is satisfied that it has no jurisdiction to deal with the application under the provisions of the Unfair Dismissals Acts, 1977 to 2007. Accordingly the claim fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)