

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE - *claimant*

CASE NO.

UD1067/2009

against

EMPLOYER - *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Dr. A. Courell B.L.

Members: Mr. D. Morrison
Mr T. Gill

heard this claim at Castlebar on 1st November 2010

Representation:

Claimant(s) : Ms. Martina Weir, Siptu, Mayo No 2 Branch, Moneen Road,
Castlebar, Co Mayo

Respondent(s) : No appearance by or on behalf of respondent

Claimant's Case

The claimant gave direct evidence that he was employed initially as a senior technician and later as a master technician at the respondent's garage premises from July 1999. He earned a gross weekly wage of €580. His employment was uneventful until an incident on 5 March 2009 which led to his dismissal. On that date he, along with two work colleagues were pushing a customer's car into the respondent's workshop for repair as the engine had failed to start. As they were doing so the car door became jammed in a mound of earth causing damage to door of the car. The claimant reported the incident to his manager on the day the incident occurred. The following week the respondent's service manager issued the claimant with a formal warning as a result of the incident. He also held the claimant accountable for the damage to the vehicle, informing him that he (the claimant) would be responsible for the cost of repairing the vehicle amounting to €850. The respondent did not take any action against the other two employees involved in the incident.

The claimant informed the owner of the business, (GC) that he wished to appeal the company's decision as he felt that he was not responsible for the damage to the vehicle. When (GC) heard that

the claimant wished to appeal the decision he became very annoyed and aggressive. The claimant was then asked by the service manager to provide a written report of the incident. The claimant provided a written report on 8 May 2009 and was requested to attend a disciplinary meeting on the same evening. The claimant pointed out that he wanted to have a union representative present with him at that meeting and his union representative was unable to attend at such short notice. The respondent insisted that the meeting proceed and the claimant only had a work colleague accompanying him as a witness due to the short notice of the meeting. (GC) outlined to the claimant his view of the incident of 5 March 2009 stating that it amounted to gross misconduct on the part of the claimant. The claimant was asked if he agreed with (GC's) view of the incident and he replied that he was unwilling to discuss the incident without the presence of his union representative. (GC) then dismissed the claimant with immediate effect. The claimant was not granted leave to appeal this decision.

Determination

Having considered the uncontested evidence of the claimant the Tribunal finds that the claimant was unfairly dismissed and awards the claimant the sum of €10040.00 under the Unfair Dismissal Acts 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

