

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

-claimant

CASE NO.
UD359/2010

against
EMPLOYER

-respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

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

Members: Mr. R. Murphy
Mr. M. O'Reilly

heard this claim at Dublin on 15th July 2011

Representation:

Claimant: Mr. William Fossett B.L. instructed by Ryan And Company Solicitors,
1 Upper Fitzwilliam Street, Dublin 2

Respondent: Mr. Eamonn McCoy, IBEC, Confederation House,
84/86 Lower Baggot Street, Dublin 2

Preliminary Issue

The respondent made the submission that the Tribunal has no jurisdiction to hear this case as the claim was submitted to the Tribunal outside the 6 month time limit as specified in Section 8.2 of the Unfair Dismissals Act 1977. The claimant's employment was terminated on the 21st of May 2009 and the claim was received by the Tribunal on the 26th of January 2010.

The claimant contends that there were exceptional circumstances preventing him from filing his claim in time. The claimant went to Spain to seek employment for a couple of weeks in August. The claimant has limited English and was ignorant of his rights with no means to ascertain his rights under employment legislation. The claimant was also distressed post his dismissal.

Determination

Having carefully considered the submissions from both parties the Tribunal, relying on the *Byrne –v- Quigley Ltd (UD761/1994)* case find that there are no exceptional circumstances allowing for the extension of the 6 month time limit as prescribed in the Act. The claimant returned from Spain in September 2009. The claimant personally made a comprehensive submission to accompany his T1A and planned to give his evidence in English without the aid

of an interpreter.

This claim was lodged outside of the six month time limit from the date of termination of employment imposed by the Unfair Dismissals Acts, 1977 to 2007. As there were no exceptional circumstances as described by the said Acts to cause this delay the Tribunal, therefore, rules that it does not have jurisdiction to hear this case and the claim necessarily fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)