

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:

CASE NO.

EMPLOYEE- *claimant*

UD1431/2010

WT594/2010

against

EMPLOYER – *respondent*

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007  
ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. O. Madden BL.

Members: Mr. J. Horan  
Mr. P. Trehy

heard this claim in Naas on 21<sup>st</sup> July 2011

Representation:

\_\_\_\_\_  
Claimant: Ms Niamh McHugh BL instructed by Ms Evelyn McMahon, D'Arcy & Co,  
Solicitors, Claregate Street, Kildare, Co Kildare

Respondent: No appearance by or on behalf of the respondent

The decision of the Tribunal was as follows:-

The Tribunal is satisfied that the respondent was properly notified of the hearing. Neither the respondent nor a representative on its behalf attended the hearing.

## **Claimants Case:**

The claimant began working for the respondent as a receptionist in August 2008. She was given a written contract of employment with a basic hourly rate of €9.20. At the interview for the position she was told she would work 40 hours per week. Her duties included checking guests in and out of the hotel, taking cash payments, room sales over the phone and giving general information. She was never subject to any disciplinary procedures or guilty of any gross misconduct.

In January 2009, she received a letter from (TD) the General Manager to inform her that her hours would be cut to three days a week until March 2009. However, it was not until August 2009 that her hours were brought back up to 40 per week or 5 days.. She had continually asked TD for more hours and he had told her that was all there was.

In December 2009, two new receptionists were hired and her hours were again cut to three days. She again asked TD for more hours. The two new receptionists were both working 40 hours each. She did other jobs in the hotel such as cleaning, weddings and helping in the bar.

In April 2009, the hotel chain organised a training course for receptionists. She asked TD if she could attend but he did not let her go or give her a reason why. The new receptionists attended the course and she worked six days that week covering for them.

She asked TD if it was ok for her to apply to attend college for two nights from 7pm to 10pm on Tuesdays and Thursdays. It was agreed with TD that she would not be rostered to work those days or her exam days.

She wrote to TD on the 23<sup>rd</sup> April 2010 about the reduced hours and exam days. When she arrived for work TD asked her to come into the conference room and told her there was no more hours.

Each week she had to write her hours into the roster handbook. She was not getting her breaks, and sometimes had to ask a waiter to step in for her while she used the bathroom. She was required to add her breaks into the roster handbook and she would write no break received. Later, she would notice that someone wrote over her entry and added in break times.

She gave notice to TD, that her exams were scheduled for 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> May 2010. She also wrote these into the handover book in the reception. When the roster was produced on the Sunday, it had her scheduled to work on the Monday 17<sup>th</sup>, but the roster was not completed for the week. She worked the Monday, and on the Tuesday she telephoned the reservation manager who told her that TD was busy and the rosters were not finished.

When she phoned back that evening, she was told to attend a meeting at 12pm on Wednesday 19<sup>th</sup> May 2010. She had an exam scheduled but went to the meeting. She met with TD who told her at a meeting with the owners it was decided to dismiss her.

### **Determination**

In the light of the foregoing and in the absence of any evidence from the Respondent, the Tribunal, in applying the provisions of section 6(6) of the Unfair Dismissals Act 1977, determines that the dismissal of the Claimant was unfair. Having heard evidence of loss the Tribunal determines that an award to the claimant in the amount of €12,625.14 represents just and equitable compensation.

The Tribunal has no jurisdiction under the Organisation of Working Time Act, 1997 to award compensation for loss of breaks.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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