

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD1165/2010, RP1595/2010
MN1131/2010

against

EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr. T. O'Sullivan
Mr J. Jordan

heard this claim at Dublin on 31st July 2012

Representation:

Claimant : In person

Respondent : No representation listed

The determination of the Tribunal was as follows:

Respondent's Case

The managing director of this childcare company wrote to the claimant on 7 April 2010. That letter stated among other things: *Your dismissal is the result of you coming on to the premises on 29th March 2010 after been told not to do so.* Earlier this witness had placed the claimant on effective suspension, as he had not supplied the respondent with his working hours from another employment. This witness felt he needed that information so as to comply with the Organisation of Working Time Act. At that time the claimant worked no more than four hours at weekends only with the respondent.

This witness was dissatisfied with an encounter with the claimant and he particularly objected to the behaviour of his mother at a meeting between them on 29 March.

Claimant's Case

The claimant told the Tribunal that he neither shouted nor in any way abused the managing director when they met on 29 March 2010. He was there in the company of his mother to clarify his position with the company. At the time the claimant was at college up to 16.00 from Monday to Friday and worked from 17.30 to 21.30 elsewhere together with a few hours with the respondent at the weekend.

Prior to meeting the managing director on 29 March the claimant's mother contacted a State agency regarding his working hours and obligations. She was satisfied that the claimant did not have to reveal all those hours to the respondent in this instance. At that meeting the managing director was physically abusive towards her as he attempted to evict her from his office.

Determination

The Tribunal has noted the contents and reason given by the respondent for the claimant's dismissal. The alleged behaviour of the claimant's mother at a meeting on 29 March 2010 cannot be used as a reason for that dismissal. Even allowing for the contention that the claimant appeared uninvited and unwelcome at the managing director's office on 29 March 2010 this does not justify the sanction of dismissal. No procedures were followed and this sanction must be considered punitive, unfair and unwarranted.

The claim under the Unfair Dismissals Acts, 1977 to 2007 succeeds and the claimant is awarded €1,000.00 as compensation under those Acts.

This being a summary dismissal it follows that no notice was given to the claimant. The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 is allowed and the appellant is awarded €69.20 being the equivalent of two weeks' pay in lieu of notice.

Since there was no evidence of redundancy and that the termination of the appellant's employment with the respondent was unfair the appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)