

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:	CASE NO.
Employee	UD260/2007
Employee	UD261/2007
Employee	UD262/2007
against	
Employer	
under	

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Sheedy

Members: Mr. J.J. Killian
Mr. J. McDonnell

heard these claims in Waterford on 17 January 2008

Representation:

Claimants: Ms. Marguerite Bolger B.L. instructed by Mr. Justin Cody,
James Cody & Sons, Solicitors, Centaur Street, Carlow

Respondent: Mr. John Goff, Nolan Farrell & Goff, Solicitors, Newtown, Waterford

This case was heard simultaneously with UD256/2007-UD259/2007.

The determination of the Tribunal was as follows:

A preliminary issue to be determined by the Tribunal was whether the Tribunal had jurisdiction to deal with the claims under the Unfair Dismissals Acts, 1977 to 2001.

It was submitted by the respondent's representative that the claims lodged to the Tribunal were outside the six-month time limit and therefore the Tribunal did not have jurisdiction to hear the claims. He stated that exceptional circumstances did not exist to prevent the lodging of the claims and that the three claimants had not taken any action in relation to their claims in the intervening period.

Counsel for the claimants stated that a solicitor of the firm from which she received her instructions

had met with the three claimants shortly after their employment was terminated on the 10 March 2006. The solicitor was verbally instructed by the three claimants to initiate proceedings on their behalf along with the claims of four others. The Tribunal heard evidence surrounding the solicitor's personal circumstances at that time. The Tribunal also heard evidence in relation to the verbal instructions given to that solicitor.

It was later discovered by another solicitor of the firm that these three claims had not been lodged. He subsequently lodged the three claims to the Tribunal and these were received on the 5 March 2007.

Determination of Preliminary Issue:

The Tribunal accepts that, within six months of the last date for which these claimants were paid by the respondent, a solicitor was informed that the claimants had claims to make. This occurred at a time when the solicitor was receiving instructions in respect of four other claimants who had also been employed by the respondent in question. The Tribunal heard about circumstances surrounding the solicitor's life around that time and that the solicitor's firm only addressed the issue of the lodging of claims for the outstanding potential claimants in the second six-month period after the last date for which they were paid by the respondent.

Having carefully considered the circumstances at issue, the Tribunal (by a majority, Mr. J. Sheedy dissenting) is satisfied that exceptional circumstances prevented the lodging of the claims within the first six months from the last date for which the claimants were paid by the respondent. Under the above circumstances and given that the claims were lodged within twelve months of the last date for which the claimants were paid by the respondent, the claims under the Unfair Dismissals Acts, 1977 to 2001, can now proceed to hearing of the substantive issue.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)