

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

Employee

RP384/2007

CASE NO. UD727/2007

against

Employers

MN587/2007

WT247/2007

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2001
REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001
ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr P O'Leary BL

Members: Mr W Power
Mr O Nulty

heard this claim at Navan on 27th March 2008

Representation:

Claimant: In person

Respondent: No representation or appearance by or on behalf of the respondent

The determination of the Tribunal was as follows:

There was no appearance or representation by or on behalf of the respondent. The Tribunal is satisfied that adequate notice was served.

The claimant was employed by the respondent as a chef from 6th January 2004 until 27th June 2007 with a gross pay of €460 per week. There was a transfer of undertakings in January 2005 when the respondent took over the business. On 27th June 2007 her employer told her she was in financial difficulties and she could no longer afford to keep her on. Her employer gave her two postdated cheques for the 1st July and 8th July. Both of these cheques were referred to drawer. Despite requests from the claimant the employer had still not issued her P45. The claimant was also due one week's holidays.

On the uncontested evidence of the claimant the Tribunal find that a redundancy situation existed and therefore the claim under Redundancy Payments Acts, 1967 to 2003 succeeds and an award will be made under the following criteria:

Date of Commencement: 6th January 2004

Date of Termination: 27th June 2007

Gross Pay: €460

Having found that a redundancy situation existed and as unfair dismissal and redundancy are mutually exclusive, the Tribunal find that the claim under the Unfair Dismissals Acts, 1977 To 2001 fails.

The claim under the Minimum Notice And Terms Of Employment Acts, 1973 To 2001 succeeds and accordingly the Tribunal award €920 to the claimant. The claims under the Organisation Of Working Time Act, 1997 succeeds and accordingly the Tribunal award €460.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)