

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
Andrzej Dubik,
13 Barnwell Place,
Hansfield,
Ongar,
Dublin 15

CASE NO.
UD1/2011
RP1/2011
MN1/2011
WT1/2011

against

Killerig Hotel Limited (In Liquidation),
C/O Jim Stafford,
Friel Stafford Corporate Recovery,
44 Fitzwilliam Place,
Dublin 2

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. N. O'Carroll-Kelly BL

Members: Mr. L. Tobin
Mr. J. Dorney

heard this case in Dublin on 3 August 2012

Representation:

Claimant(s):

Ms. Lauren Tennyson BL instructed by Anderson & Gallagher, Solicitors,
29 Westmoreland Street, Dublin 2

Respondent(s):

No attendance or representation

The determination of the Tribunal was as follows:-

Claims were brought under unfair dismissal, redundancy minimum notice and working time legislation. It was alleged that the claimant, a caretaker, had been unfairly dismissed after an employment from June 2007 to November 2010.

The claims made were not contested.

At the Tribunal hearing the claims lodged under the Redundancy Payments Acts, 1967 to 2007, and the Organisation of Working Time Act, 1997, were withdrawn.

Giving sworn testimony through an interpreter, the claimant confirmed that his employment had begun in June 2007. During his employment he lifted heavy weights. He sustained a hernia problem and had operations. He furnished sick notes. However, subsequent to a meeting in late October 2010, he was told that he could only resume work when he had learned English. The claimant told the Tribunal that nothing had been said to him about his English when he had taken the job. Having found himself dismissed without notice, he brought unfair dismissal and minimum notice claims. Regarding loss incurred after his dismissal, two weeks' pay was sought as compensation under minimum notice legislation and eighty-eight weeks' pay was sought as compensation under unfair dismissal legislation. He stated that his pay had been €12.50 per hour for a thirty-nine hour week.

The claimant said that he had tried (by making about a hundred copies of his curriculum vitae and visiting business parks and employment agencies) to mitigate his loss and that, with great difficulty, he had succeeded in obtaining new employment.

The claims made were not contested at the Tribunal hearing.

Determination:

The Tribunal notes that the claims under the Redundancy Payments Acts, 1967 to 2007, and the Organisation of Working Time Act, 1997, were withdrawn.

Allowing the claim under the Unfair Dismissals Acts, 1977 to 2007, the Tribunal decides compensation to be the appropriate remedy in all the circumstances of the case and deems it just and equitable to award the claimant the sum of €42,900.00 (this amount being equivalent to eighty-eight weeks' gross pay at €487.50 per week) under the said legislation.

In addition, the Tribunal, allowing the claim under the Minimum Notice and Terms of Employment, 1973 to 2005, awards the claimant the sum of €975.00 (this amount

being equivalent to two weeks' gross pay at €487.50 per week) under the said legislation.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

