

**EMPLOYMENT APPEALS TRIBUNAL**

**CLAIM OF:**

**CASE NO.**

EMPLOYEE

UD919/11  
- claimant MN1053/11

**Against**

EMPLOYER

- respondent

**under**

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms F. Crawford BL

Members: Mr P Pierce  
Mr J. Dorney

heard this claim at Naas on 30<sup>th</sup> November, 11<sup>th</sup> April and 12<sup>th</sup> April 2013.

**Representation:**

Claimant:

Respondent:

The determination of the Tribunal was as follows:-

At the outset of the hearing the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 was withdrawn.

**Respondent's Case:**

The respondent is a Montessori junior school located in Co. Kildare. It has eighty pupils and five to six teachers. The ethos of the school is that each child is unique and nurtured and respected. It is an informal atmosphere. Classes commence at 9 am each day. The Board of Trustees consisted of four members. RD, was approached by the Principal of the school to go on the Board in September 2010. She is a parent of a child who attends the school. RD has since resigned from the Board of Trustees.

The claimant was the principal and also taught in the school. While the claimant was out on

administrative leave in late 2010 the vice principal took over her class. The Board asked the vice principal to write a report on each child. The claimant was unhappy with the report. It was the claimant's view that the content and tone of the report displayed a complete lack of respect towards the claimant. The claimant felt that the vice principal was trying to undermine her position as principal and the claimant had lost all faith in her. The report put into question the claimant's competence, professionalism and commitment to the school's method of education and she utterly rejected what she believed to be the vice principal's defamatory and offensive comments. The claimant felt duty bound to inform the Board of her position in this regard. She wrote to the Board on 26<sup>th</sup> January 2011 with her views. She also gave a copy of this letter to the vice principal on 28<sup>th</sup> January 2011 and advised her to reflect on her position over the weekend. She emailed TC, Chairperson of the Board and informed him of her discussion with the vice principal. The vice principal met with TC following her receipt of the claimant's letter.

The claimant was invited to attend a disciplinary hearing and this took place on 22<sup>nd</sup> February 2011. RD together with Board member, KH and the respondent's solicitor attended the disciplinary hearing with the claimant and her solicitor. The purpose of the meeting was to discuss the claimant's actions/behaviour towards the vice principal. The claimant had written to the Board insisting that the vice principal be removed from the school and also copied the letter to the vice principal.

Having read the letter the Board's understanding was that the claimant wanted the vice principal to step down from her post immediately.

The Board reviewed the claimant's letters of 24<sup>th</sup> and 26<sup>th</sup> January 2011, and email from NM to RD and a copy of TC's handwritten notes taken contemporaneously on 28<sup>th</sup> January 2011 with his meeting with the vice principal. The Board sought advice from a HR consultant and the best approach to take. The three board members initiated the disciplinary process.

RD chaired the disciplinary hearing. The claimant stated that she did not actually insist on the vice principal's removal from the school but that she be removed from her post as vice principal, not actually from her teaching post just as a matter of clarification. Consequently, this was accepted. The claimant had made a recommendation to the Board in light of the vice principal's action in writing a report on the claimant's class while she was on administrative leave in December 2010. It was the claimant's view that the content and tone of the report displayed a complete lack of respect towards the claimant. The claimant felt that the vice principal was trying to undermine her position as principal and the claimant had lost all faith in her. The claimant felt duty bound to inform the Board of her position in this regard.

The claimant proposed that the Board ask LO to become acting vice principal in the interim.

RD thought it was awful and disgraceful behaviour of the claimant that she had handed the vice principal a copy of the letter the claimant had previously given to the Board. She contended that the claimant had behaved against the school ethos. The claimant contended that she was willing to enter a process of reconciliation.

A performance improvement weekly plan was initiated for the claimant. RD and TC met with the claimant at the first meeting.

By letter dated 1<sup>st</sup> March 2011 the Board considered the claimant's actions in requesting the Board to remove the vice principal from her position as an extremely serious matter. The Board found the behaviour in handing a copy of the letter of 26<sup>th</sup> January 2011 to the vice principal and asking her to consider doing the honourable thing and step down as serious misconduct and for which termination of the claimant's employment was warranted. Previous disciplinary matters and warnings on the claimant's file did not play any part on the decision to dismiss the claimant from her employment.

The claimant was afforded a right to appeal the decision to dismiss her within seven days of this letter. She did not appeal that decision.

### **Claimant's Case:**

The claimant had 22 years experience in teaching and a diploma in Montessori teaching. After a break to raise her family she returned in 2007 and commenced employment with the respondent. In early December 2010 the respondent received a complaint from a concerned parent of a child who attended the school. The parent alleged that her son had been shouted at. Subsequently, it was found that there was no merit to this claim. The respondent also had a concern that the Montessori method was not being adhered to in the claimant's classroom. TC and RD subsequently met the claimant and placed her on administrative leave pending the investigation of this matter. The claimant was furnished with a copy of the complaint. She was emotional and upset at that time and could not believe what was happening.

The respondent asked the vice principal to take the claimant's class while she was on administrative leave and to write a report on each child. The claimant was shocked when she read the contents of the report. She was taken aback and thought it was unethical. She had lost all faith in the vice principal and this resulted in the complete and irretrievable breakdown of their working relationship and could be seen as completely undermining the claimant's position as a teacher and as principal of the school. Following the lifting of her suspension she returned to the school.

The claimant was handed a performance review plan and she attended one meeting regarding this plan. The claimant sought to have an independent facilitator to help resolve matters and suggested M. She furnished M with background information. M in turn contacted the Board.

The claimant was again suspended for alleged breach of data protection. Subsequently, as she had lost all trust in the Vice Principal she asked her to step down from her post. She handed her letter to her to this effect. She also wrote to the Board. The claimant was happy that the Vice Principal remain on as a teacher in the school.

The claimant attended a disciplinary meeting on 22<sup>nd</sup> February 2011 together with her solicitor. RD chaired that meeting. Also in attendance were KH and the respondent's solicitor. A stenographer was present and recorded the minutes of that meeting. The claimant said that she did not insist on the Vice Principal's removal from the school but clearly requested she be removed from her post as vice principal and not from her teaching post. This was accepted. She believed that the Vice Principal had lost all credibility by writing such a report while the claimant was absent on administrative leave and she felt duty bound to inform the Board of her position in this regard. She felt the Vice Principal had completely undermined her position as Principal. The claimant saw no point in questioning the Vice Principal at the disciplinary meeting. Her relationship with the Vice Principal had broken

down because of the Board's procedures. The claimant really wanted to reconcile with the Vice Principal but this was not possible.

The claimant was dismissed from her employment on 3<sup>rd</sup> March 2011.

Following legal advice the claimant chose not appeal the decision to dismiss her. She had no faith in the appeals process.

Following the claimant's termination of employment, he claimant secured a fixed term contract in November 2011. She has since been working on fixed term contracts but at a lower salary.

**Determination:**

The Tribunal carefully considered the evidence adduced and submissions furnished and in particular the matters that led to the claimant's dismissal.

The Tribunal finds that the procedures used by the respondent were unsatisfactory. While the claimant was not compelled to invoke the appeal process the Tribunal finds that it would have been helpful.

Taking all the matters into consideration the Tribunal finds that the claimant was unfairly dismissed and awards her €32,500.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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