

	Complainant	Respondent
Anonymised Parties	<i>A Cleaner</i>	<i>A Property Management Company</i>

## Complaint(s):

Act	Complaint/Dispute Reference No.	Date of Receipt
Complaint seeking adjudication by the Workplace Relations Commission under section 6 of the Payment of Wages Act, 1991	CA-00031799-001	24/10/2019
Complaint seeking adjudication by the Workplace Relations Commission under section 7 of the Terms of Employment (Information) Act, 1994	CA-00031799-002	24/10/2019

Date of Adjudication Hearing: 18/02/2020 Workplace Relations Commission Adjudication Officer: Breiffni O'Neill Procedure:

In accordance with Section 41 of the Workplace Relations Act, 2015 following the referral of the complaints to me by the Director General, I inquired into the complaints and gave the parties an opportunity to be heard by me and to present to me any evidence relevant to the complaints.

## Background:

The complainant commenced her employment on 20th March 2012. She was employed as a cleaner for 25 hours per week on an hourly rate of €10.80. She alleges that the respondent tried to re-locate her to an alternative work site and claims that this is at odds with an agreement signed on 7th August 2019.

## Summary of Complainant's Case:

The complainant worked in the same location from the beginning of her employment until an attempt was made by the respondent on or about 1st March 2019 to change her work location. As a result of this proposed change she submitted a claim to the WRC under the Protection of Employees (Part Time) Work Act 2001 because she believed that she was being treated unfairly compared to full-time employees. Further to this complaint being made, an agreement was reached on 7th August wherein it was stated that the respondent would:

- (i) furnish the complainant with a statement of her terms and conditions of employment and
- (ii) re-engage her at her original work location on the same hours she had always worked

Despite this agreement, the respondent informed the complainant on 6th September that she would not be returning to her original location and offered her work on alternative sites. The complainant refused to take up any of these offers because it was at odds with the agreement signed on 7th August and meant that she would have to move to a different location.

She also claimed that she did not receive a copy of her written terms and conditions of employment.

## Summary of Respondent's Case:

The respondent accepted that an agreement was reached with the complainant surrounding her working hours and location on 7th August 2019. Notwithstanding this, the respondent's client, whose site the complainant was meant to return to, according to the terms of the agreement, subsequently refused to re-engage her for undisclosed reasons. As a result of this refusal and not wishing to jeopardise the commercial contract with a significant client, the respondent offered the complainant a number of reasonable alternatives, one of which was very close to location where she previously worked. These alternatives were never taken up by the complainant despite her solicitor advising that she would be willing to work at two of the proposed locations.

The respondent also stated that numerous attempts were made to meet and present the complainant with her written terms and conditions of employment but highlighted that she did not respond to any of these meeting requests.

#### Findings and Conclusions:

In reaching my decision on this matter, I note that a written agreement was signed between the complainant and the respondent on 7th August 2019 wherein it was accepted by both parties that the complainant would be re-engaged at the location where she had always worked for 25 hours per week at a rate of €10.80 per hour. Given that the complainant did not agree to vary the terms of this written agreement, I find that the provision surrounding the work location included therein is still valid, notwithstanding the decision of the respondent's client to refuse to re-engage her

I also find that the respondent should have issued the complainant with her written terms and conditions of employment and consider that these should have been issued by post even if, as is alleged, the complainant was unwilling to meet to receive same in person.

#### Decision:

Section 41 of the Workplace Relations Act 2015 requires that I make a decision in relation to the complaints in accordance with the relevant redress provisions under Schedule 6 of that Act.

CA-00031799-001: For the reasons set out above, I find that this complaint is well founded and order the respondent to pay the complainant €2,970. This is a gross amount and is subject to taxation and other statutory deductions. It represents the wages she was entitled to receive from 7th August 2019 the date on which the agreement was signed to when the complaint was received by the WRC, namely 24th October 2019.

CA-00031799-002: For the reasons set out above, I find that this complaint is well founded and order the respondent to pay the complainant four weeks' pay in the amount of €1,080.

Dated: 22-04-2020 Workplace Relations Commission Adjudication Officer: Breiffni O'Neill Key Words: