

Wrongful Dismissal

Area of law: Employment Law

WHO IS INVOLVED

Dan: Claimant (Employee)
 Ryan Duffy's Management Limited: Defendant (Employer)

BASIC FACTS

The Claimant worked for the Defendant from January 5, 2015 to May 15, 2015 and was hired at an annual salary of \$75,000. The salary was changed to \$50,000 on May 1, 2015. On May 15, 2015, the Claimant was terminated and was paid one week's salary in lieu of notice (on the basis of \$50,000 pay rate). The Claimant secured new employment and started a new job six weeks later on June 29. The claim is for pay for the period of May 15 to June 29 representing damages for failure by the Defendant to provide the Claimant with appropriate notice.

Dan was hired as a Chief Operating Officer (COO) by Ryan Duffy's at a salary of \$75,000. He started work on January 1, 2015. He was advised on April 1st that Ryan Duffy's could not continue with the COO position as money which Ryan Duffy's received from another organization was not continuing which was the only way the position was made possible in the first place. This was the first time that Dan became aware of the funding arrangement for his position. Dan was told that he could stay on as chef at a reduced salary of \$50,000. A formal offer was not provided to Dan outlining the particulars of the job and role until end of April. Dan advised Ryan Duffy's that the written terms were not acceptable. Two weeks later Dan was terminated from employment by Ryan Duffy's.

Ryan Duffy's considers that it did nothing wrong. The position of Ryan Duffy's is that Dan was provided with notice that his COO position could not be continued and provided with alternate employment. Furthermore Dan's actions indicate that he accepted the new position at the lower salary. Ryan Duffy's considers that Dan was unreasonable in not accepting the terms of the chef position and that there is no basis for paying him damages for the 6 week period between his leaving the employment of Ryan Duffy's and starting new work.

Dan considers that Ryan Duffy's unfairly changed his salary from \$75,000 to \$50,000 and left him with no option but to continue working at the reduced rate in the chef role. Dan had bills to pay and could not afford to walk away from the job. When he was provided with written terms of employment for the chef role he could not agree to the terms and found his employment terminated and he feels it is unfair that he received only one week's salary on the basis of the \$50,000 pay rate. He did secure employment six weeks later and believes he is entitled to payment for the six weeks while he was unemployed.

