

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employer

PW46/2005

against

the recommendation of the Rights Commissioner in the case of:
Employee

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. MacCarthy S C

Members: Mr J. Browne
Mr B. Byrne

heard this appeal at Wexford on 19th February 2007

Representation:

Appellant: Kirwan & Kirwan, Solicitors, 4 Cornmarket, Wexford

Respondent: No appearance or representation

The decision of the Tribunal was as follows:

This case came before the Tribunal by way of an appeal, by an employer, against the recommendation of the Rights' Commissioner in the matter of Employee v Employer (ref: r-031270-pw-04/TB).

Determination.

The Tribunal satisfied itself, at the outset of the hearing, that the employee had been put on notice for the hearing.

In sworn evidence, the employer stated that his relationship with the employee stretched back to their schooldays, and that upon entering into a new business venture he employed the employee as a Chef in a pub. He said that the employee appeared keen to work as a Chef, and that they agreed the terms and conditions of employment. He confirmed that the employee was employed in a full-time capacity; that he worked shift hours between 10.00am and 3.30pm and between 6.00pm and 10.00pm. Staff members were required to sign in and out on days they worked. He said that

the employee was paid €11 nett per hour, with earnings of €350 per week, and that wages were paid by direct debit to him.

The employer explained that difficulties arose early in the employment relationship in that he would often meet the employee outside the workplace at times during the day when he was, in fact, signed in for duty in the pub. He felt that the situation needed sorting and a meeting to resolve matters, including the issue of money owed by the employee to him, was held. The employer, the employee (with his girlfriend) attended the meeting. The employer informed the Tribunal that no monies were due to the employee, as he had been paid in excess of what was due to him.

The employer stated that one week's notice was given to the employee, whose employment terminated on 25th May 2004. He denied owing the employee any money, and repeated that the employee had failed to repay him for monies loaned to him.

Determination

The employee failed to attend hearings on two separate occasions, and the Tribunal is satisfied that proper notice was served on the second occasion.

The Tribunal heard evidence from the employer and is satisfied that no monies are due to the employee under the Payment of Wages Act, 1991.

The Tribunal allows the appeal and sets aside the decision of the Rights' Commissioner.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

