

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
Employee

CASE NO.
TE24/2007

against

the recommendation of the Rights Commissioner in the case of:

Employer

under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr W. Power
Ms M. Maher

heard this appeal at Dublin on 19th July 2007

Representation:

Appellant(s): Mr. Blazej Nowak, Emigrant Advice, 1 Cathedral Street, Dublin 1

Respondent(s): 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 employee, against the recommendation of the Rights' Commissioner in the matter of Employee v employer (ref: r-039795-te-06/JT).

Appellant's case.

In sworn evidence, his representative acting as interpreter, the appellant stated that he commenced employment with the respondent on 27th October 2004, which was terminated on 13th November 2005.

The appellant stated that he became ill in October 2005, attended his General Practitioner who gave him a certified sick absence note for his employer. On presentation of the certificate, his former employer stated that he could claim social welfare entitlements. When he went to do so, the

Department of Social and Family Affairs informed him that no PRSI contributions had been made by his employer on his behalf and, in the circumstances, no payment could be made to him.

A copy P45 was presented in evidence, which confirmed the correct name of the employer. The appellant stated that he obtained this copy P45 having sought advice from his representative.

The appellant stated that he had not received a statement of the terms and conditions of his employment, as required under the Terms of Employment (Information) Act, 1994 and 2001, from the above named respondent.

Determination.

Based upon the un-contradicted evidence of the appellant, the Tribunal sets aside the recommendation of the Rights Commissioner and upholds this appeal.

The Tribunal is satisfied that the respondent was on notice of the date of the hearing, having been served notice of that hearing. The Tribunal also notes that the respondent's legal representative indicated their intention to apply for a postponement of the hearing but that no such application was made.

Having satisfied itself of this, the Tribunal proceeded to hear the sworn evidence of the appellant (through his representative acting as interpreter) and finds that this is a well-founded case.

The Tribunal awards the appellant compensation of €1960.00, being four (4) weeks at €490.00 gross per week, under the Terms of Employment (Information) Act, 1994 and 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____
(Sgd.) _____
(CHAIRMAN)

