

EMPLOYMENT APPEALS TRIBUNAL

COMPLAINT(S) OF:
Employee

CASE NO.
I4/2006

against the decision of The Minister for Enterprise & Employment
in the case of :

Employer

under

PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) ACTS, 1984 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. P. O'Leary BL

Members: Ms. A. Gaule
Mr. B. Byrne

heard this complaint in Dublin on 11 April 2007

Representation:

Complainant :

In person

Respondent(s) :
XXXX

The declaration of the Tribunal was as follows:-

Complainant's Case

The complainant told the Tribunal that the company that had employed him had used vans to deliver healthcare products. The complainant's employment with the company had commenced on 15 March 2004. The directors kept the books. As well as working "nine to five" the complainant worked very substantial overtime often until eight or nine at night. On the night of Monday 8 May 2006 the company's premises were cleared out so that the place had been emptied by the morning of Tuesday 9 May 2006. The company thus ceased to trade.

The complainant's average basic pay of €950.00 combined with his average overtime of €393.75 to give him an average gross weekly wage of €1,343.75. At the termination of his employment he was owed wages for one week and one day. He was also due payment for four weeks of

overtime and for 6.33 days of outstanding holidays (based on a five-day working week).

Minister's Case

The Tribunal was told that it was not possible to dispute the claims because it had not been possible to obtain records from the company which was now insolvent. Correspondence sent to a director of the company had not been answered.

Declaration:

Under the Protection of Employees (Employers' Insolvency) Acts, 1984 to 2001, the Tribunal declares that the complainant is entitled to

four weeks' overtime at €393.75 gross per week i.e. **€1,575.00**

and

6.33 days' pay at the basic €950.00 gross per week for outstanding holidays i.e. **€1,202.70**

and

1.2 weeks' pay at €1,343.75 gross per week (for arrears of average wages that combined the basic €950.00 gross per week and overtime of €393.75 gross per week) i.e. **€1,612.50.**

Note:- Payments made from the social insurance fund are subject to a statutory ceiling of €600.00 per week.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)