

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
Employee

CASE NO.
UD878/2005
RP398/2005

MN644/2005

against

Employer

and

AIBP, 14 Castle Street, Ardee, Co. Louth

and

AIBP Rathkeale, Rathkeale, Co. Limerick

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2001
REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Sheedy

Members: Mr. G. Phelan
Mr. A. Kennelly

heard these claims in Limerick on 3 August 2006 and 26 October 2006 and 1 May 2007

Representation:

Claimant : Mr. Gerard O'Neill, O'Neill & Co., Solicitors,
25 Glentworth Street, Limerick

Respondents : Mr Conor Bowman BL instructed by
Woods Ahern Mullen, Solicitors, 18 Francis Street, Dundalk, Co. Louth
(at hearings on 3 August and 26 October 2006) representing the first-named
respondent

Mr. Alastair Purdy, Purdy Legal, Solicitors,
New Docks, Lough Atalia, Galway (at hearing on 1 May 2007) representing the
second-named and third-named respondents

The determination of the Tribunal was as follows:

The hearing on 3 August 2006 was adjourned following a ruling on a preliminary issue regarding time limits. The appellant was given leave to add further respondents to his original claim.

The hearing on 26 October 2006 was adjourned to allow the claimants to join the second-named and third-named respondents to the proceedings.

At the Employment Appeals Tribunal hearing on 1 May 2007 the representative of the appellant said that, due to the nature of the appellant's employment, there had been confusion as to who was the correct employer and that the Tribunal had agreed to join AIBP to the case as a second respondent. The appellant's representative added that the appellant was proceeding against XXXX (the name on the appellant's payslip) rather than against AIBP.

XXXX representative argued that XXXX had never been the appellant's employer and that the appellant had never been under the control of XXXX.

No evidence was offered by or on behalf of XXXX at the Tribunal hearing on 1 May 2007.

Giving sworn evidence, the appellant said that he had worked as a boner for XXXX. He confirmed the commencement date given on his claim form which was 20 June 2000. On 21 January 2005 he was told that there would be no work for a while. He was never brought back. He had no P45. There had been variation in his weekly pay but, on an averaging calculation, his gross pay had been €600.00 per week. His payslip had contained the name of XXXX. He neither received a redundancy lump sum nor a minimum notice payment. He sought that the Tribunal make him awards against XXXX for these entitlements. He confirmed that his date of birth was 10 January 1977. He did not proceed with the claim he had lodged under the Unfair Dismissals Acts, 1977 to 2001.

Determination:

Having considered the evidence adduced, the Tribunal makes an order against XXXX under the Redundancy Payments Acts, 1967 to 2001, that the appellant is entitled to a redundancy lump sum based on his continuous reckonable service from his commencement date of 20 June 2000 to his termination date of 21 January 2005, his gross weekly pay of €600.00 per week and his date of birth which was 10 January 1977.

In addition, the Tribunal makes an order under the Minimum Notice and Terms of Employment Acts, 1973 to 2001, against XXXX awarding the appellant the sum of €1,200.00 (this amount being equivalent to two weeks' gross pay at 600.00 per week).

The claim lodged under the Unfair Dismissals Acts, 1977 to 2001, falls for want of prosecution.

Note: in the case of social insurance fund payments a statutory ceiling may be applicable.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)