

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
Employee

CASE NO.
RP228/2006

Against

2 Employers

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Mr J. Walsh
Mr O. Nulty

heard this appeal at Monaghan on 19th June 2007

Representation:

Appellant : Mr. Jim Mullery, (Branch Secretary), SIPTU, 3/4 Old Cross Square, Monaghan

Respondent: XXXX

The decision of the Tribunal was as follows:

The appellant commenced employment with the respondents in November 1984. His primary function was that of a lorry driver and in that capacity he worked from early mornings to late afternoons on delivery runs. By the end of 2003 the respondents were in financial difficulties and that situation became more pronounced in early 2004 when they lost two contracts with significant customers. That loss impacted noticeably on the appellant's workload and remuneration. Both his hours and pay were substantially reduced and the nature of his work changed from long distance delivery duties to local ones and general labour around the premises. By April 2004 the appellant felt his position was gone and decided to leave the respondent.

In November 2004 the respondents ceased trading and two months later the workforce was made redundant. The respondents' representative who was one of three directors agreed with the above account and added that they were disappointed to lose such a good worker. The applicant's submitted T1-A form was received by the Tribunal's secretariat on 24 April 2006. His stated date of termination was 30 April 2004. His trade union had ongoing discussions with the respondents regarding redundancies and those discussions included the applicant's situation. The appellant thought he was going to receive redundancy during that time. However he was not on the respondents' payroll in January 2005 and therefore the companies felt he was not entitled to such a payment.

Determination

The Tribunal firstly had to consider whether it had jurisdiction to hear this case as the application was clearly outside the stipulated twelve months normally allowed for under the Acts. By a majority decision the Tribunal finds that the applicant offered a reasonable cause as to the reasons for his late application.

The Tribunal is satisfied that a cause and effect situation existed in this case. The appellant resigned his employment due to an adverse change in his working conditions brought about by the deteriorating commercial position of the respondents. Section 9-(1) (c) of the 1967 Act applies in this case.

Accordingly the Tribunal finds that the appellant is entitled to a statutory redundancy payment under the Redundancy Payments Acts, 1967 to 2003 and awards him a lump sum based on the following:

Date of Birth : 16 February 1949
Date of Commencement: 15 November 1984
Date of Termination: 30 April 2004
Gross Weekly Wage: €798.00

This decision is against both named respondents jointly and severally.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)