

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

2 Employees

RP480/2006
MN621/2006

against

RP481/2006
MN622/2006

2 Employers

under

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. K. Kilrane

Members: Mr. B. O'Carroll
Mr. J. LeCumbre

heard this appeal at Longford on 15 March and 23 July 2007

Representation:

Appellants: Mr. William Noone, Branch Secretary SIPTU,
Liberty Hall, Dublin 1

Respondents: XXXX

The determination of the Tribunal was as follows:

Determination:

The first named respondent was the sole respondent on the first day when it emerged that the appellants had been the subject of a Transfer of Undertakings in April 2006, from the first named respondent, the transferor, to the second named respondent, the transferee, before the date of dismissal as stated on their appeals to the Tribunal. In those circumstances the appellants were allowed to add the second named respondent to the proceedings. On the second day of hearing it emerged that when the appellants' employment with the second named respondent ended on 7 August 2006 they moved into employment on the same site with a third employer. Neither appellant accepted that this second transfer was seamless. The first named appellant did work the same hours; the second named appellant suffered a reduction in hours as a result of the transfer in August 2006. The second named respondent told the Tribunal that they had correspondence from the third party to the effect that the third party accepted that a Transfer of Undertakings situation arose in August 2006. It subsequently emerged that the second named respondent was not in a position to provide such correspondence. In all the

circumstances the Tribunal must find that there has been continuity of employment for the appellants at all relevant times. Accordingly the appeals under both the Redundancy Payments Acts, 1967 to 2003 and the Minimum Notice and Terms of Employment Acts 1973 to 2001 must fail.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)