

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO:

Employer

PW40/2006

against the decision of the Rights Commissioner, **R-039118-PW-05/JH**

In the case of

Employee  
under

### PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal  
(Division Of Tribunal)

Chairman: Mr. P. Quinn BL

Members: Mr. J. Redmond  
Dr. A. Clune

heard this appeal at Galway, on 3 August 2007.

Representation:

Appellant:

Directors of the Respondent

Respondent:

In person

This case came before the Tribunal as a result of a purported appeal by an employer (the Appellant) against a decision of the Rights Commissioner under the Payment of Wages Act, 1991, R-039118-PW-05/JH, in the case of Employee(the Respondent)

At the outset of the hearing, the following facts were established by the Tribunal, by the agreement of both parties,

- (a) The Respondent commenced employment with the Appellant on 29<sup>th</sup> August 2005.
- (b) The Respondent did not have a written contract of employment with the Appellant.
- (c) The period for which the Respondent was not paid by the Appellant was the period from the 10<sup>th</sup> October 2005 to the 15<sup>th</sup> October 2005 inclusive.

- (d) As at the 17<sup>th</sup> day of October 2005, being the date on which the Respondent failed to attend at his work with the Appellant and being the date on which he notified it of his resignation, the Respondent had not by then, been in the employment of the Appellant for a period of thirteen weeks.
- (e) At no stage prior to the 17<sup>th</sup> day of October 2005, had the Appellant provided the Respondent with written details of the existence and/or effect of the Appellant's notice requirements, in the event of a proposed termination of employment by the Respondent.
- (f) The Respondent had not prior to the 17<sup>th</sup> October 2005 given his prior consent in writing to the deduction of his wages, as made by the Appellant, in the circumstances which pertained.
- (g) The Appellant, did not within 6 weeks, from the date on which the decision of the Rights Commissioner was communicated to it, or at all, give to the Respondent, a copy of its notice in writing to the Tribunal, as required by section 7(2) of the Payment of Wages Act 1991.

**Determination**

The Tribunal unanimously determines that, as the Appellant has not complied with the mandatory statutory requirements for a valid appeal, pursuant to the provisions of section 7(2)(b) of the Payment of Wages Act, 1991, a valid appeal was not before it.

In such circumstances, the Tribunal determines that it has no jurisdiction to hear and determine any such appeal from the said decision of the Rights Commissioner. As it thereupon follows that the decision of the Rights Commissioner may not be impugned before the Tribunal, such decision is accordingly affirmed.

Sealed with the Seal of the  
Employment Appeals Tribunal

This  
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(Sgd.)  
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(CHAIRMAN)