

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
Employee

CASE NO.
RP110/2007
MN162/2007

against

Employer

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: Ms N. O'Carroll-Kelly BL
Members: Mr M. Murphy
 Mr. J. Dorney

heard this appeal at Dublin on 12th July 2007

Representation:

Appellant: Mr. David Healey, Blanchardstown Citizens Information
 Centre, Westend House, Snugborough Road, Dublin 15

Respondent: XXXX

The decision of the Tribunal was as follows:

The Tribunal heard evidence from the Claimant. He told the Tribunal that there “definitely” was no meeting between Mr. C and himself regarding his resignation. There was no telephone conversation or no “face to face” meeting. He did not say that he was going to resign. As far as he knew he was still an employee until February 2007. The manager phoned him on 11th February 2007 and told him that the premises was closing down the following day and asked him if he would like to come to a party on the premises after work that evening. He was surprised at the news and as far as he knew the company up until this time employed him.

He explained that he did not resign from the company during a meeting on the premises and he was not at a meeting. He did not leave his employment. He was told that his employment ended in February 2007.

The Tribunal asked the Claimant about his p45. He explained that he phoned a Mr. C at one time about his p45 and he was told that one had already issued to him. He told Mr. C that he did not get one. He was sent a copy of p45.

The representative for the company contended that the Claimant was not an employee of the Respondent company at that time when they made the employees redundant in February 2007. He

also explained that there was a transfer of undertaking in November 2005. He agreed that the company employed him at the time of the transfer and thereafter. It was his understanding that the Claimant was issued with a p45 in or around August/September 2006. He believed that the Claimant resigned. He understood that there wasn't a letter of resignation.

The representative was asked what evidence that there was that the Claimant resigned. He explained that a Mr. C was at a meeting with the Claimant. The representative accepted that Mr. C was not going to give evidence and that there was no documentation to say he resigned. The Claimant was given a p45 but there was no covering letter with it. The person who issued the p45 was not at the hearing to give evidence.

Determination:

Based on the evidence adduced the Tribunal determines that a redundancy situation existed and the Claimant's job was made redundant. Accordingly, the Tribunal awards the claimant a Statutory redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2003, based on the following information and noting his period on disability benefit:

Period of disability benefit: 01st December 2005 to 10th August 2006 and 03rd November 2006 to 23rd February 2007

Date of birth: 12th November 1950

Date of commencement of employment: 14th November 1994

Date of termination of employment: 23rd February 2007

Gross weekly pay: €686.90.

It must be noted that a Statutory gross weekly ceiling of €600.00, applies to payments from the Social Insurance Fund.

The claim under the Minimum Notice and Terms Of Employment Acts, 1973 to 2001, fails.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)