

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

2 Employees

RP264/2006

RP265/2006

against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K.T. O'Mahony B.L.

Members Mr. G. Phelan
Mr. T. Kennelly

heard these appeals at Limerick on 11 September 2007

Representation:

Appellants: Mr. Gerard Kennedy, Assistant Branch organiser,
SIPTU No.1 Branch, 4 Church Street,
St. John's Square, Limerick

Respondent: Mr. Padraic Lyons B.L. instructed by Ms. Ciara Tunney,
William Fry Solicitors, Fitzwilton House, Wilton Place, Dublin 2

The determination of the Tribunal was as follows:

Determination:

Section 11 (2) of the Redundancy Payments Acts, 1967 to 2003 provides that:

"Where

- (a) for any week an employee's remuneration is less than one half of his normal weekly remuneration or his hours of work are reduced to less than one half of his normal weekly hours,*
- (b) the reduction in remuneration or hours of work is caused by a diminution either in the work provided for the employee by his employer or in other work of a kind which is under his contract the employee is employed to do,*
- (c) it is reasonable in the circumstances for the employer to believe that the diminution in work will not be permanent and he gives notice to that effect to the employee prior to the reduction in remuneration or hours of work, the employee shall, for the purposes of this*

Part, be taken to be kept on short-time for that week.”

Section 12 (1) of the Redundancy Payments Acts, 1967 to 2003 provides that:

“An employee shall not be entitled to redundancy payment by reason of having been laid off or kept on short-time unless-

- (a) he has been laid off or kept on short time for four or more consecutive weeks or, within a period of 13 weeks, for a series of six or more weeks of which not more than 3 were consecutive*
- (b) after expiry of the relevant period of lay-off or short-time mentioned in paragraph (a) and not later than 4 weeks after the cessation of the lay-off or short-time, he gives to his employer notice (in this part referred to as a notice of intention to claim) in writing of his intention to claim redundancy payment in respect of lay-off or short-time.”*

Whilst both appellants were on reduced weekly remuneration and hours of work hours in the relevant period before claiming redundancy, neither of the appellants met the definition of short-time as defined in the Acts in the thirteen-week period. In those circumstances both appeals under the Redundancy Payments Acts, 1967 to 2003 must fail.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)