

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

2 Employees

CASE NO.

UD1141/2006

RP586/2006

MN749/2006

UD1142/2006

RP587/2006

MN750/2006

against

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001 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 B.L.

Members: Mr. D. Winston
Mr. O. Nulty

heard these claims at Dundalk on 5 September 2007

Representation:

Claimant:

Mr. Conor G. Breen, McDonough Matthews & Breen, Solicitors,
Distillery House, Distillery Lane, Dundalk, Co. Louth

Respondent:

Financial Controller of the respondent

The determination of the Tribunal was as follows:

The respondent employed both claimants in a canteen that they ran both on behalf of, and on the premises of, a third party. There were a total of five employees in the canteen. The third party elected to close its premises and on account of this, on 13 March 2006, the respondent gave notice of redundancy to both claimants to the effect that the respondent's contract with the third party would terminate on 28 April 2006. A redundancy package, in excess of the statutory entitlements, was negotiated on behalf of all the employees by their Trade Union. The redundancy notice did raise the possibility of some work continuing after 28 April 2006. Both claimants were involved in

discussions about working after 28 April 2006 but this would have involved a commitment to extra hours, which the claimants were not in a position to give. Both claimants received their redundancy payouts on 28 April 2006. The claimants' position was further that their statutory lump sum payments should have been based on a weekly pay of €600-00 per week.

Determination:

The Tribunal is satisfied that a genuine redundancy situation existed in the case of the positions of both claimants. Notice of redundancy was given on 13 March 2006 of redundancy on 28 April 2006 and employment ended by reason of redundancy on 28 April 2006. The calculations for the purposes of a lump sum payment under the Redundancy Payments Acts, 1967 to 2003 are set out in SI 695 of 2004 and the Tribunal is satisfied that the correct criteria were used in calculating the statutory lump sum payments which the claimants received under the Redundancy Payments Acts, 1967 to 2003. Whilst there may have been discussions about employment extending beyond 28 April 2006 these came to nought and both claimants accepted the redundancy package. In these circumstances claims under the Unfair Dismissals Acts, 1977 to 2001 do not arise. The Tribunal is satisfied that the claimants were given the requisite period of notice of redundancy, accordingly the claims under 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)