

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO

Employee

MN409/2007
RP244/2007

against

Employer

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001 REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr B. Garvey BL

Members: Mr J. Horan
Ms M. Finnerty

heard this appeal at Dublin on 12th October 2007

Representation:

Appellant(s): The appellant in person

Respondent(s): No representation or attendance by or on behalf of the respondent

The decision of the Tribunal was as follows:-

Appellant's Case

The appellant told the Tribunal that he commenced employment as a driver with the respondent, an employment agency in October 2002. He reported to XXXX who assigned him work. He received his payslips and his holiday pay for over four and a half years from the respondent and he also received a P60. He worked approximately fifty hours a week. In May 2007 he was informed by XXXX that there was no more work for him and he became aware that the depot was going to close. He joined a union one and a half to two years ago. The employees did not know what was going to happen and union negotiations were ongoing during this time. He took two weeks holidays until the matter was resolved. His colleagues in XXXX who were permanent employees were paid more than he was. There were union problems with full time staff in XXXX. On return from holidays he approached the respondent to establish if there was work available for him. The respondent had alternative work available but not at the rate of pay and the hours that he previously earned and this was not suitable to the appellant. He was offered a job delivering goods to a number of small shops early in the morning. He would have to start work at 5a.m. and he also had

to pass their driving assessment. He could not accept the job as he could not sleep during the day and it was then too dangerous to drive a truck. He approached the respondent to establish if he could get redundancy.

He had no choice but to seek alternative employment and he had a month in which to find another job. He went through the newspapers and responded to advertisements. He obtained alternative employment four weeks later. He lost a month's wages as well as overtime and he used his holiday pay as wages.

Determination

The Tribunal are of the unanimous view that the appellant's job no longer existed. The appellant was made redundant by virtue of new conditions of employment, which did not suit him. There was a change in his circumstances of employment and there was no suitable alternative employment available for him. He is entitled to redundancy under the Redundancy Payments Acts, 1967 to 2003 based on the following criteria: -

Date of birth	24 January 1964
Date employment began	28 October 2002
Date employment ended	28 May 2007
Gross weekly pay	€820.00

Please note that a statutory weekly ceiling of €600.00 gross applies to payments from the Social Insurance Fund.

The Tribunal finds that the appellant's employment terminated without notice and he is therefore entitled to two weeks compensation in the amount of €1640 (€820 per week) under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

