

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employer

PW73/2006

against the decision of the Rights Commissioner **R-042296-PW-06/JH**
in the case of

Employee

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members Mr. M. Murphy
Ms. E. Brezina

heard this appeal at Portlaoise on 29 August 2007

Representation:

Appellant:

in person

Respondent:

Ms. Deirdre Ryan, B. Hyland & Co. Solicitors,
Roscrea, Co. Tipperary

This case came before the Tribunal as a result of an appeal by the employers (the appellants) against a decision of the Rights Commissioner under the Payment of Wages Act, 1991, R-042296-PW-06/JH, in the case of Employee (the respondent).

Determination

The respondent worked for the appellants from April 2005 until April 2006. The employment was initially part-time but was full-time from 11 May 2005 when the respondent received written terms of employment. Some time around August 2005 the respondent received a pay rise. The appellants' position is that this pay rise was on foot of a request from the respondent that she be paid, in advance, in lieu of her holiday entitlement. The respondent's position is that the second named appellant informed her that the pay rise was on account of her position being upgraded from that of sales assistant to manager.

It is common case that the respondent was owed pay for four public holidays on which she had worked. It is also common case that the respondent only took one and a half days' annual leave during the employment. There is no provision within the Organisation of Working Time Act, 1997 for a pay rise to be given in lieu of annual leave. Section 19 (1)(a) of that Act provides that..... *an employee shall be entitled to paid annual leave equal to 4 working weeks in a leave year in which she works at least 1,365 hours.* On that basis the Tribunal is satisfied that the respondent had a valid complaint against the appellants and upholds the decision of the Rights Commissioner. Accordingly the respondent is awarded €1,000-00 under the Payment of Wages Act, 1991.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)