

EMPLOYMENT APPEALS TRIBUNAL

COMPLAINT OF:

CASE NO.

Employee
MN734/2006

I3/2006

against the decision of The Minister for Enterprise & Employment
in the case of :

Employer

under

**PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) ACTS, 1984 TO 2001
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr L. Ó Catháin

Members: Mr J. Hennessy
Dr. A. Clune

heard this complaint at Cork on 17th October 2007

Representation:

Complainant :

In person

Respondent :

Departmental Representative

The declaration of the Tribunal was as follows:-

This case came before the Tribunal by way of a complaint under Section 9(1) of the Protection of Employees (Employers' Insolvency) Acts 1984-2004 against the decision of the Minister for Enterprise Trade and Employment.

The company was formally insolvent within the definition of the aforementioned Act however a liquidator was not appointed to the company therefore the claims could not be certified as required by Section 6(6) of the 1984 Act.

Complainant's case:

The complainant in his evidence told the Tribunal that he commenced his employment with the respondent on 7th November 2005 and his employment ended without notice on 9th May 2006. He did not receive any holiday pay for the six-month period and did not work on Public Holidays. When his employment ended he was owed outstanding wages including unpaid wages, a back weekend bounced cheques. His gross weekly pay was confirmed as €414.50.

Department's position:

The Department refused to pay the outstanding claims as no liquidator had been appointed to wind up the company and the claims could not be certified as required by Section 6(6) of the 1984 Act. In relation to the claim for arrears wages copies of bounced cheques were shown to the Tribunal and the total outstanding was confirmed as being 3.4 weeks amounting to €1,409.30. In relation to the claim for outstanding holiday pay this was calculated as being 2.43 weeks amounting to €1,007.24 based on an annual leave entitlement of twenty days.

Decision:

The Tribunal is satisfied that in accordance with Section 6(2)(a) (i),(ii),(iii) and (iv) of the Protection of Employees (Employers' Insolvency) Acts 1984-2004 the complainant is entitled to be paid the following based on a gross weekly wage of €414.50:

1. 3.4 weeks arrears of wages = €1,409.30
2. 2.43 weeks arrears holiday pay = €1,007.24
3. 1 weeks notice = €414.50 under the Minimum Notice and Terms of Employment Act 1973 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

