

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employee

RP356/2007

against

MN534/2007

Employer

under

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: Mr. T. Ryan

Members: Mr. G. McAuliffe
Mr. P. Trehy

heard this appeal at Dublin on 4 December 2007

Representation:

Appellant:

In Person

Respondent:

Mr. David O'Riordan, Sherwin O'Riordan Solicitors,
74 Pembroke Road, Dublin 4

The determination of the Tribunal was as follows:

The appellant, who repaired TV and other electronic equipment, worked under a contract for services for another organisation from 1992 until 1996. Following the withdrawal from the market of this other organisation the appellant began to do work for the respondent from 15 October under a contract modelled on that he had previously worked under. The appellant worked from the respondent's premises at all times apart from occasional jobs undertaken on customers' premises. The appellant worked regular hours but was paid per item repaired and invoiced the respondent accordingly. No tax or PRSI was deducted from the payments the appellant received. The appellant received the keys to the workshop in January 1997 and was usually the one to open and close the premises. Most of the time the appellant was the only person in the workshop. When the work became scarce the appellant was paid a fixed fee as a retainer. On 17 October 2006 the respondent brought the arrangement to an end and ceased the repair business. The respondent refused to pay a redundancy lump sum as their position was that the appellant was working under a contract for services.

Determination:

Having carefully considered all the evidence in this case the Tribunal is satisfied that the appellant was an employee of the respondent. On that basis the Tribunal is satisfied that the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 To 2003 based on the following criteria

Date of Birth	15 May 1944
Employment commenced	15 October 1996
Employment ended	17 October 2006
Gross weekly pay	€502-00

The evidence having shown that the employment ended on the day notice of termination was given, the Tribunal awards €3,012-00, being six weeks' pay, under the Minimum Notice and Terms of Employment Acts, 1973 to 2001

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)