

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employer

PW05/2007

against the decision of the Rights Commissioner **R-044275-PW-06/JH**
In the case of

Employee

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Fahy B.L.

Members Mr. J. Redmond
Dr. A. Clune

heard this appeal at Galway on 10 January 2008

Representation:

Appellant: In Person

Respondent: In Person

This case came before the Tribunal as a result of an appeal by an employer (the appellant) against a decision of the Rights Commissioner under the Payment of Wages Act, 1991, **R-044275-PW-06/JH**, in the case of the employee, XXXX (the respondent).

Determination

The employee worked as a general operative for the employer from 10 April 2006 until 14 July 2006. The work involved the painting of both existing and new homes, as well as some industrial work. The employee was paid at a rate of €6-50 per hour, a rate below the National Minimum Wage. The employer conceded that he had to comply with the National Minimum Wage but did not accept that the employment came under the Registered Employment Agreement (Construction Industry Wages and Conditions of Employment). Clause 1(a) of the second schedule of this agreement states....*For the purpose of this Agreement a building firm means an undertaking the principal business of which is one or a combination of any of the following activities:-*

- *The construction, reconstruction, alteration, repair, painting, decorating, fitting of glass in buildings and demolition of buildings.*

The Tribunal is satisfied that the employer is covered by this description and that the employee is entitled to have his pay calculated in accordance with this agreement. The appropriate rate for the employee to be paid at is €13-48 per hour, it is agreed between the parties that the total number of hours for which the employee is to be paid, including holidays and public holidays is 444.5. These figures show a shortfall of €3,102-61 in wages paid to the employee. In such circumstances the Tribunal upholds the decision of the Rights Commissioner and the appeal fails, the Tribunal varies the award to €3,102-61 under the Payment of Wages Act, 1991.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)