

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
Employee

CASE NO.
RP40/2007,
MN79/2007

Against

2 Employers

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: Ms R. O 'Flynn B L

Members: Mr D. Hegarty
Ms H. Kelleher

heard this appeal at Cork on 4th February 2008

Representation:

Appellant : Mr Eoin Clifford B L instructed by
Martin A Harvey & Co, Solicitors, Parliament House, 9/10 Georges Quay, Cork

Respondent : No representation listed

The decision of the Tribunal was as follows:

Respondent's Case

The owner and respondent of this enterprise established an earlier company in 1999 and recruited the claimant as an employee for that entity in that year. However, that company "went broke" sometime later and the witness retained the claimant as he set up another business. At that time the claimant's status changed from a labourer to that of an apprentice mason. He was "out of his time" in early 2006 when he was subjected to a "temporary lay -off". The claimant recommenced work in June that year but due to a further downturn in business his work again ceased in November 2006. The witness told the claimant that there would be no more work again "till after Christmas". When the witness and claimant met on 8 January 2007 the latter informed the former that he was now working elsewhere and "staying where he was". It emerged during this evidence that the employer had never issued the claimant with a contract of employment nor furnished him with pay slips.

Claimant's Case

The claimant started employment in March 1999 as a labourer for the owner's previous company. In March 2000 he embarked on an apprenticeship course that he successfully completed four years later. In February 2006 he was "laid-off" for a week. In late November the respondent told him that there was no more work and he therefore proceeded to "get the fastest job possible".

Determination

Having heard the adduced evidence and submissions, the Tribunal is satisfied that the presumptions contained in section 10 of the Redundancy Payments Act 1971 have not been rebutted by the Respondent. The Tribunal therefore finds that the claimant was dismissed by the Respondent, by reason of redundancy. Accordingly, he is awarded a statutory redundancy sum under the Redundancy Payments Acts, 1967 to 2003 and based on the following:

Date of Birth :	10 January 1969
Date of Commencement:	15 March 1999
Date of Termination:	24 November 2006
Gross Weekly Wage:	€653.00

A statutory weekly ceiling of €600.00 applies to payments under the above Acts and from the Social Insurance Fund.

The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 also succeeds and the appellant is awarded €1253.00 in respect of outstanding notice entitlements under those Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

