

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.
RP539/2006

Employee

against

3 Employers

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Fahy

Members: Mr. T. Gill
Mr. M. McGarry

heard this appeal at Castlebar on 14th December 2007 and 7th March 2008

Representation:

Appellant: Mr. Val McNicholas FCIPD, 2 Rosedale, Taylors Hill, Galway

Respondents: In person

The decision of the Tribunal was as follows:

Claimant's evidence:

The Claimant said she worked for the first named respondent for five and a half years, but received no redundancy pay when the business was sold.

First named Respondent's evidence:

She said that the sale took some time to go through, as a fire certificate was needed before the sale could be finalised. She closed the business on 24 February 2006, and advised the employees beforehand. She said she sought advice from the Redundancy section of the Department, and was told that she did not have to pay the Claimant her redundancy entitlement, as it was a change of ownership situation. She said that she told the new owners about the two employees who had worked for her, and that the second named respondent had spoken to the Claimant about getting a job.

Second named respondent's evidence:

He said that he did not speak to the Claimant because he and his partner were only interested in buying the premises, and not the business as a going concern. They were planning to develop the site for residential and commercial purposes. They did not want the old staff, but planned to employ their own people. They subsequently leased the shop.

Third named respondent's evidence:

He said the sale took a long time to go through, as the previous owner was waiting for a fire certificate. He stated that he made no enquiries about the employees of the business when he and his partner took over.

Determination:

The Tribunal determines that a Transfer of Undertakings had taken place. At the time of purchase, the second and third named respondents made no enquiry about the existing employee or her entitlements.

The Tribunal accordingly awards her a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2003, based on the following criteria:

Date of Birth:	15 October 1951
Date employment commenced:	02 September 2000
Date employment ended:	24 February 2006
Gross weekly salary	€160.00

This award is made jointly and severally against the second and third named respondents: Mr. Michael Corrigan & Oliver Ward.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

