

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
Employee

CASE NO.
RP205/2007, MN340/2007
WT147/2007

against

Employer

Under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001
ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J. Sheedy

Members: Mr J. Hennessy
Mr D. McEvoy

heard this appeal at Waterford on 18th April 2008

Representation:

Appellant : In person

Respondent : B.M. Cahill & Co., Solicitors, St. Catherines Hall, Waterside, Waterford

At the outset of the hearing the claimant withdrew the appeals under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 and the Organisation of Working Time Act, 1997

The decision of the Tribunal was as follows:

Respondent's Case

Due to a downturn in business in the autumn of 2006 the respondent gave the appellant a few days notice on 2 October that he would have "to let him go". He told the appellant at the time that if work "picked up" he would contact him. Around ten days later the respondent phoned the appellant and informed him that some work was now available but "nothing too big". He had no way of knowing at the time whether more substantial work would materialise for the future. However the appellant rejected that offer of employment stating he was undertaking nixers at the time. It emerged later that more sustainable work became available in early 2007.

Appellant's Case

The appellant commenced employment as an apprentice plumber with the respondent in September 2003. He had completed phase three of that training when the respondent gave him notice that there was no more work for him. The witness acknowledged he had contact with the respondent in mid October 2006 when he was offered one day's work. He felt that such an offer was inadequate and sought a redundancy payment.

Determination

The respondent in this case seemed to believe that he was placing the appellant in a lay-off situation while the appellant regarded his cessation of employment on 6 October 2006 as a redundancy case. The respondent in evidence used the term let-go in relation to the appellant's leaving which implies a termination of employment in a permanent way. The respondent neglected to use a RP9 form to support his contention that this was a lay-off situation in this case. Furthermore the respondent was unable to offer the appellant at least thirteen continuous weeks work when he contacted the appellant in October 2006.

The Tribunal finds in the circumstances that a redundancy situation existed in this case and therefore awards the appellant a statutory amount under the Redundancy Payments Acts, 1967 to 2003 based on the following:

Date of Birth: 20 September 1977
Date of Commencement: 1 September 2003
Date of Termination: 6 October 2006
Gross Weekly Wage: €612.69

A weekly ceiling of €600.00 applies to statutory redundancy amounts.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

