

## EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

Employee

RP470/2006

against

MN610/2006

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. P. Hurley

Members: Mr. G. Phelan  
Dr. A. Clune

heard this appeal at Limerick on 12 December 2007  
and 19 February 2008

#### **Representation:**

Appellant:

Mr. Ger Kennedy, SIPTU,  
4 Church Street, St. Johns Square,  
Limerick

Respondent:

Mr. Niall Kelly, Lane Kelly Associates, Solicitors,  
Lock Quay, Limerick

The determination of the Tribunal was as follows:

The appellant was employed for a trial period from 1 February 2002 with a view to determining if the respondent felt that the appellant would be suitable for an electrical apprenticeship. On 19 April 2002, the office manager (OM) and the managing director (MD) decided that the appellant was suitable for an apprenticeship. FAS received an apprenticeship registration form, completed by OM and signed by the appellant on 1 May 2002, on 3 May 2002. The appellant was required to undergo an eyesight and colour blindness test and to submit copies of his state examination results. A senior training advisor from FAS visited the appellant at the respondent's premises on 8 May 2002. The appellant's registration was approved and his apprenticeship registration number was assigned on 13 May 2002. A statutory apprenticeship is for a minimum period of four years from the date of registration with FAS. The apprenticeship was uneventful and the appellant had successfully completed the seven phases of the apprenticeship within that four-year period.

The respondent's position is that their policy is that the service of all apprentices is broken at the

end of their period of apprenticeship. Their position is further that on both 28 April and 5 May 2006 OM told the appellant that, as his apprenticeship was coming to an end, the respondent was going to terminate his employment. It is common case that on 25 May 2006 the appellant, who was at this stage hired out to another employer, was told in a telephone conversation with another member of the respondent's staff that his employment was to end on 2 June 2006. In the event the appellant was paid up to and including 5 June 2006, a public holiday.

The appellant's position is that his apprenticeship commenced on 19 April 2002, the date on the apprenticeship registration from and the date of dismissal was more than one month after the expiry of four years commencing on that date such that the respondent was not entitled to rely on Section 7 (4) of the Redundancy Payments Acts, 1967 to 2003. His position is further that some apprentices were kept on and he decided to keep his head down and see what happened.

**Determination:**

*Section 7 (4) of the Redundancy Payments Acts, 1967 to 2003 provides that.....Notwithstanding any other provision of this Act, where an employee who has been serving a period of apprenticeship training with an employer under an apprenticeship agreement is dismissed within one month after the end of that period, that employee shall not, by reason of that dismissal, be entitled to redundancy payment.*

To successfully complete a statutory apprenticeship, such as the one undertaken by the appellant, it is necessary to successfully complete the seven phases of training and to complete a minimum period of four years from the date of registration with FAS. It is clear from the evidence adduced that the appellant's period of statutory apprenticeship commenced on 13 May 2002. Accordingly his period of apprenticeship could not end until 13 May 2006. The Tribunal notes that the apprenticeship registration form, whilst stating that the date of registration is the official start date of the apprenticeship, is not returned to the apprentice with that date of registration recorded. The Tribunal is not satisfied that the appellant was given notice that he was to be released on any particular date on either 28 April or 5 May 2006. It is clear that the appellant was given notice on 25 May 2006. The requisite period of notice for an employee with between two and five years' service, as was the case at the time is two weeks. In those circumstances the Tribunal finds that the appellant was dismissed on 8 June 2006. That date being within one month of the end of the period of apprenticeship the claim under Redundancy Payments Acts, 1967 to 2003 must fail.

The Tribunal, not being satisfied that the appellant received the required statutory notice, awards €685-00, being four days' 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)