

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
Employee

CASE NO.
RP378/2007

Against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. McGrath B L

Members: Mr M. Noone
Mr B. Byrne

heard this appeal at Wicklow on 2nd April 2008

Representation:

Appellant : Mr Daniel Keleher B L instructed by
Rosemary Scallan & Company, Solicitors, "Menlo", Chruch Road,
Greystones, Co Wicklow

Respondent : Felton McKnight, Solicitors, Church Road, Greystones, Co. Wicklow

The decision of the Tribunal was as follows:

It is the nature of the construction business that persons get laid off from time to time as quiet or down times tend to crop up between contracts. It is unsatisfactory for employees but the statutes specifically allows for lay-off to protect a fluctuating business. The Acts further allow an employee to judge that a lay-off becomes a long-term termination when it becomes apparent that no work is going to become available. The employee can invoke his right to call the lay-off a redundancy. This did not happen here and as anticipated work became available a mere two months later. The employee's period of employment remains unbroken. He cannot be put at a disadvantage because he took on good faith the employer's promise that work would be made available in due course. Therefore the Tribunal finds the period of employment commenced 22nd October 2001 and continued up to October 2006.

The appeal under the Redundancy Payments Acts, 1967 to 2003 is allowed and the applicant is awarded a statutory sum based on the following:

Date of Birth: 26 September 1968
Date of Commencement : 22 October 2001
Date of Termination: 8 October 2006
Gross Weekly Wage: €548.50

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

