

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

Employee

RP395/2006

Employee

RP396/2006

against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. E. Kearney B.L.

Members: Mr. M. Forde
Mr. T. Kennelly

heard this appeal at Clonmel on 28 September 2007

Representation:

Appellants:

Mr. Andrew Gubbins B.L. instructed by Mr. Scott Ryan,
Scott Ryan Solicitors, Willow House, Mary Street,
Clonmel, Co. Tipperary

Respondent:

Mr. Philip English, English Leahy & Associates, Solicitors,
8 St. Michael's Street, Tipperary

The determination of the Tribunal was as follows:

The appellants commenced employment for the respondent's husband in a public house in Fethard in April 1999. Following the death of her husband the respondent became the employer. On 10 March 2006 the appellants completed the purchase of the public house from the respondent and the licence transferred to them. The appellants continued to work in the public house after their purchase of it. The appellants did not receive a redundancy payment or minimum notice from the respondent.

The appellant's position was that following the sale of the business to them they had ceased to be employees and were therefore entitled to lump sum payments under the Redundancy

Payments Acts, 1967 to 2003. The respondent's position was that the rights and obligations arising from employment contracts had transferred to the appellants under the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 on their purchase of the public house.

Determination:

The Tribunal is satisfied that, arising from the purchase of the public house by the appellants, there was a transfer of the undertaking to the appellants as transferees. The business continued to operate and the appellants continued to work in the public house. There was no dismissal of the appellants. In such circumstances there is no right to a lump sum payment and the appeals under the Redundancy Payments Acts, 1967 to 2003 both fail

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)