

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
Employee

CASE NO.  
PW92/2006

against the recommendation of the Rights Commissioner in the case of:

Employer

under

### **PAYMENT OF WAGES ACT, 1991**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr E. Murray

Members: Mr J. Browne  
Mr A. Butler

heard this appeal at Wexford on 11th March 2008

### **Representation:**

Appellant: In person

Respondent : No representation listed

**This case came before the Tribunal by way of an appeal against a decision of a Rights' Commissioner reference number r-042313-pw-06/TB**

The decision of the Tribunal was as follows:

### **Appellant's Case**

The witness was recruited by an employment agency to undertake general labour that included shuttering work with the respondent. His remuneration was based at a level commensurate with the level of a general operative. It was the witness's contention that he was entitled to a rate in line with his alleged status as a fully qualified carpenter. He produced documentation from Poland dated 1972 in support of his claim that he had attained that status together with references labelling him as a carpenter. Those documents were not shown to the respondent or the recruitment agency. Even though he spoke to the respondent on a couple of occasions about this issue the witness expressed his fear that he would lose his job had he raised the matter of his pay with them. The witness received advice that his pay rate was too low but not to make an issue of it. He was not issued with a contract of employment. The witness accepted that the situation over his holiday pay has been resolved.

## **Respondent's Case**

A director of the respondent gave evidence that the company employed three staff at the relevant time including the appellant. All those employees were foreign nationals and undertook the same work for the same pay. The respondent had requested general operatives from the recruitment agency and that agency in turn sent the appellant to them. The company did not employ or require any carpenters and neither saw nor asked for papers on qualifications from the appellant. Despite the appellant's misgiving about his pay he continued to work there and there was no threat to his job due to those misgivings.

## **Determination**

Having heard the evidence and submissions the Tribunal is not satisfied that the appellant was improperly paid for his employment with the respondent. Accordingly, the appeal against the Rights Commissioner's decision fails and the Tribunal therefore reaffirms that decision under the Payment of Wages Act, 1991

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

