

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:	CASE NO.
Employee	RP431/2007
Employee	RP439/2007
against	
Employer	
under	

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. N. O'Carroll- Kelly B.L.

Members: Mr. J. Goulding
Mr. C. Ryan

heard this appeal at Naas on 30 April 2008

Representation:

Appellants:

The first named appellant represented both appellants

Respondent:

Human Resource Manager

The determination of the Tribunal was as follows:

The appellants worked as technicians in the manufacture of electronic components in a facility of a customer of a company related to the respondent from June 2003. They were both resident in Scotland and came to this jurisdiction for the duration of their working weeks. It is common case that initially they were in a self-employed capacity. From January 2004 the appellants became employees of the company related to the respondent. They were paid in sterling until June 2006 when they became employees of the respondent. In February 2007 the customer notified the respondent of a downturn in demand for the electronic components. This resulted in there being a reduction of three in the number of technicians being employed and the appellants were selected as two of those to be declared redundant. This was communicated to the staff, including the appellants, at a meeting on 26 February 2007. It is the respondent's position that the appellants were informed of positions being available in Germany, Israel and the USA and that these positions represented suitable alternative employment. The appellants' position is that they were not offered any such positions on 26 February 2007 and that in any event they did not represent suitable alternative employment. The manager who conducted the 26 February 2007 meeting did not give

evidence to the Tribunal.

On 5 March 2007 the human resource manager wrote to the appellants with a letter of termination to take effect on 31 March 2007. This letter stated, “at this particular time we do not have vacancies for which your skills are suited”. It is the appellants’ position that alternative work was not offered until after 31 March 2007.

The respondent’s position was that when the appellants changed from being employees of the related company paid in sterling to being employees of the respondent this had the effect of breaking their continuity of service.

Determination:

The appellants having accepted that they were self-employed until 1 January 2004, the Tribunal is satisfied, having regard to the transfer of undertaking regulations, that the appellants had continuity of employment from 1 January 2004 until 31 March 2007. Accordingly the Tribunal finds that the appellants are entitled to lump sum payments under the Redundancy Payments Acts, 1967 to 2003 based on the following criteria

Name	Date of Birth	Employment started	Employment ended	Gross weekly pay
Brian McLaughlan	22/07/1969	01/01/2004	31/03/2007	€1442-31
John Brown	07/02/1966	01/01/2004	31/03/2007	€1442-31

It should be noted that payments from the social insurance fund are limited to a maximum of €600-00 per week.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)