

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
Employee

CASE NO. RP19/2008

against
Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N O'Carroll-Kelly BL

Members: Ms J Winters
Ms K Warnock

heard this appeal at Navan on 22nd April 2008

Representation:

Appellant: In person

Respondent: In person

The decision of the Tribunal was as follows:

Respondent's Case:

The Managing Director (MD) of the respondent company contested that the appellant is entitled to a redundancy payment due to a break in service. MD stated that the employee had initially been employed from 25th September 2003 until 28th July 2005. The appellant then began to work for Trelawn Builders Limited from 2nd August 2005 until 20th January 2006. The appellant resumed working for the respondent company from 21st January 2006 until 7th September 2007.

MD is a Director of both companies (Ashwood Homes Limited and Trelawn Builders Limited) and had changed from Ashwood Homes Limited to Trelawn Builders Limited when he had a problem with the other Director of Ashwood Homes Limited. MD was unable to write cheques in order to pay the wages when the other Director left. In order to continue the job MD subcontracted Trelawn Builders Limited. The appellant's role did not change during the changeover. The employees were not notified in writing of the change of company and there were no written contracts of employment. MD changed the company name back to Ashwood Homes Limited in January 2006. There were many employees in the same position. MD told the appellant on Thursday 30th August 2007 that the job was finishing and gave him his wages for the week and payment in lieu of one week's notice. MD believed that the appellant was not entitled to redundancy as he did not have 104 consecutive weeks service with Ashwood Homes Limited.

Appellant's Case:

The appellant had been employed by the respondent company from 25th September 2003 until 1st September 2007. He had worked for same person, at the same place, doing the same job for the duration. The name Trelawn builders Limited appeared on the cheque at one stage. He was later paid into his bank by Ashwood Homes Limited. The appellant was told on Thursday 30th August that there was no more work and given his P45 and two weeks wages.

Determination:

The Tribunal finds that there was a change of company name, but no change of ownership or management. Accordingly, the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2003 based on the following information:

Date of Commencement: 25th September 2003
Date of Termination: 7th September 2007
Gross weekly pay: €722.67

It should be noted that a statutory weekly ceiling of €600.00 applies to payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)