

EMPLOYMENT APPEALS TRIBUNAL

Appeal Of:
Employee

Case No.
RP73/2008

against
Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. E. Daly B.L.

Members: Mr. J. Hennessy
Mr. G. Whyte

heard this appeal at Carlow on 7th May 2008

Representation:

Appellant: In person

Respondent: Ms. Brid Deering, Colbstown, Castledermot, Co. Kildare

The decision of the Tribunal was as follows:

Appellant's Case:

The appellant gave evidence that he commenced work as an apprentice with the respondent in 2004. In or around the end of November 2007 the appellant received a telephone call from his employer who informed the appellant there was no work for him. Subsequently the appellant contacted his local Social Welfare office. The appellant did not receive any work from the respondent during December 2007. Due to this he contacted the respondent in early January 2008 and requested his P-45. There was subsequent contact between them concerning an incorrect date on the appellant's P-45. The appellant made an enquiry to the respondent concerning a redundancy payment but the respondent informed him that he was not entitled to redundancy.

Respondent's Case:

Giving evidence the respondent stated that he employed the appellant and two other apprentices. At the time of November 2007 the appellant was in the fourth year of his apprenticeship while the other apprentices were in their second and third year respectively. The respondent stated that he did not give notice to the appellant in November 2007 but placed him on temporary lay-off. The other two apprentices continued to work for the respondent during December 2007.

During the conversation in November 2007 the respondent told the appellant he had no work for him but hoped to have some soon. However, the respondent did not secure further work until early January 2008.

The appellant requested his P-45 on the 2 January 2008. The respondent subsequently amended the date of termination on the appellant's P-45 from 20 December 2007 to the 30 November 2007. The respondent did not receive an RP9 form from the appellant.

Answering questions from the Tribunal the respondent accepted the level of work had diminished but he had told the appellant he would contact him when work was available. The respondent did not offer to the appellant, the work the other two apprentices were doing during November and December 2007.

Determination:

The Tribunal finds that the termination of the appellant's employment falls under the definition of redundancy as set out in the Redundancy Payment Act of 1971, which states "the fact that the requirements of that business for employees to carry out work of a particular kind in the place where he was so employed have ceased or diminished or are expected to cease or diminish."

The Tribunal finds that the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2003 based on the following criteria:

Date of Birth:	8 September 1985
Date of Commencement:	15 October 2004
Date of Termination:	30 November 2007
Gross Weekly Pay:	€615.39

Please note that a statutory ceiling limit of €600.00 applies to payment from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)