

EMPLOYMENT APPEALS TRIBUNAL

Appeal Of:
Employee

Case No.
RP153/2008

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. J. Hennessy
Mr. C. Ryan

heard this appeal at Portlaoise on 6th May 2008

Representation:

Appellant: Mr. Marcin Szulc, Maguire McClafferty, Solicitors, 8 Ontario Terrace,
Portobello Bridge, Dublin 6

Respondent: Director of the company.

The decision of the Tribunal was as follows:

Appellant's Case:

The Tribunal heard that the director of the respondent company had also operated a business as a sole trader. The appellant commenced employment with the sole trader business in July 2004. Approximately two years later a transfer of undertakings occurred between this business and the respondent company. The appellant continued to carry out the same work and his manager did not change. The appellant's employment with the respondent company was terminated by reason of redundancy in September 2007. He was given notice of his redundancy in August 2007. The appellant gave evidence of his gross weekly wage.

Respondent's Case:

It was the respondent's case that the appellant had not been transferred to the respondent company but had changed employment voluntarily. Both businesses were operating simultaneously for a period of time. A number of employees wanted to be employed under the respondent company and the witness facilitated this. Eventually the sole trader business ceased trading and a number of the remaining employees started work for the respondent company. There was no break in the

appellant's service. The witness ended the appellant's employment with the respondent company by reason of redundancy in 2007.

Determination:

The Tribunal finds that the Protection of Employees on Transfer of Undertakings Regulations 2003 (S.I. No. 131 of 2003) applies in relation to the appellant's employment. Therefore, 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:	6 January 1951
Date of Commencement:	21 July 2004
Date of Termination:	7 September 2007
Gross Weekly Pay:	€800.00

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

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)