

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employee

RP671/2006

against

2 Employers

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J. Fahy

Members: Mr T. Gill  
Ms H. Henry

heard this appeal at Galway on 1<sup>st</sup> February 2008 and 12th May 2008

Representation:

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Appellant :

In person

Respondent :

In person

The decision of the Tribunal was as follows:-

#### **Appellant's case:**

The appellant was told by the respondent's wife in November 2005, on route to Tuam in the van that business was not great and that the shop was closing in March 2006. In January 2006 she was told that if she got other work to "go for it" as a loyal employee. When the appellant asked if her leaving for another job would affect her redundancy she was told that being who she was that it would not. The appellant respected the respondent as she had worked with them for a long time. She became aware that there was a position vacant in a local store and she asked could she leave as they were supposed to close a couple of weeks later. She left the respondent on 24<sup>th</sup> February 2006 and started working in the local store a couple of weeks later.

In cross-examination the appellant said she left with the respondent's permission as the shop was

closing and if it was not closing she would still be working for the respondent. On the day she left the appellant said they were selling the fixtures and fittings and her understanding was that the shop closed two to three weeks later. After she left she was in contact with the respondent and she was told her redundancy money would be sorted. When asked if the word redundancy was mentioned witness stated that on route to Tuam the respondent commented to the appellant “you call it redundancy” and the appellant said “yes”. The appellant trusted the respondent as she had worked there a long time.

**Respondent’s case:**

The respondent came to the conclusion during the course of 2005 that retailing in the store was difficult. He was aware of the strengths and exposures of the business. The rents and rates they were paying were more than the business could take. Having spoken with their accountants in the latter quarter of 2005 they were going to have to make changes in Spring 2006 and it could come to closure. As the appellant was their “right- hand” employee they confided in her with the information and wanted to give her the opportunity to see what job prospects were available. March was never mentioned as a date for closing. Christmas and post Christmas is a good time to let stock run down. While it was felt that the appellant was due a payment on leaving, the respondent was not thinking of statutory redundancy. They brought their son on board after the appellant had left and the business carried on until May 2006. The appellant was the last employee to leave. None of the employees were paid redundancy as only one had over two years service and the others worked on a part-time basis.

In cross-examination the appellant commented that when she left the shop walls were bare and their son was working there at that time and witness stated that somebody had to be at the till for about six weeks after the appellant left.

In answer to questions from Tribunal members, witness said that the first mention of redundancy was when the appellant asked his wife to sign statutory redundancy forms and he refused to sign them.

The respondent’s wife agreed that she told the appellant she would give her money. She personally did not know how redundancy works. She told the appellant that as a valued employee she would not go empty handed.

**Determination:**

The Tribunal having heard the evidence is satisfied that a redundancy situation prevailed. The Tribunal is satisfied that the appellant was advised that the shop was experiencing operational difficulties and possible closure, in fact the shop closed in early May 2006, some six weeks after the appellant left.

The appellant is entitled to a redundancy lump sum under the Redundancy Payments Acts 1967 to 2003 based on the following:

Date of Birth	8 <sup>th</sup> January 1960
Date employment began	6 <sup>th</sup> September 1999
Date employment ended	24 <sup>th</sup> February 2006
Gross weekly pay	€351.00

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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

