

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

2 Employers

CASE NO.

PW22/08

Against the recommendation of the Rights Commissioner in the case of
Employee

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. E. Daly B.L.

Members: Mr. L. Tobin
Mr. S. O'Donnell

heard this claim at Dublin on 24th June 2008.

Representation:

Appellant: In person.

Respondent: In person.

The decision of the Tribunal was as follows:-

This appeal came before the Tribunal by way of the employer (the appellant) appealing against the decision of the Commissioner under the Payment of Wages Act, 1991 (ref. R-055670-pw-07).

Appellant's Case:

The appellant (the employer) was in business nine years. He employed four employees. The respondent worked in a launderette owned by the appellant. The respondent's (employee's) employment commenced on 1st December 2006 and ended on 9th June 2007. The respondent worked seven hours per day, 6 days a week. She was paid the minimum wage of €8.35 per hour. The appellant's business closed on bank holidays and the respondent was accordingly paid in lieu of that day. The appellant gave the respondent odd hours off from work but still paid her full wages.

The respondent took two weeks holidays, first week being in April 2007 and the second week was taken over a month later.

The appellant deducted a sum of €17.50 for a till shortage and €39.90 for damage caused to a customer's blanket from the respondent's wages without consultation with the respondent.

Upon the appellant's arrival at his business on 8th June 2007 he met a customer and his wife leaving the business with cleaned curtains and ironed items. The cleaned curtains cost approximately €50 and the ironing €20. When the appellant opened the till he noticed it contained only €7.00. He questioned the respondent. The respondent explained that the customer had given her a receipt marked paid so she understood no charge was applicable for the items.

The respondent then became very upset and showed the appellant outstanding unpaid personal bills. She became very emotional and started crying and ran out the door. The appellant understood that the respondent would report for work the next day (Saturday) but she did not. The appellant phoned her several times after that as she had left a dress behind her but to no avail.

The appellant told the Tribunal that all staff were paid by company cheque. If he had a particularly good week in the business he gave employees extra money in cash. He always paid the respondent on a Friday as this was at her request.

The appellant told the Tribunal that he had never informed the respondent that deductions could be made from her wages from the commencement of her employment.

The appellant also told the Tribunal that he had given the respondent and her husband a deposit of €7,000.00 towards a new house.

The appellant contended that he did not terminate the respondent's employment.

Respondent's Case:

When the respondent commenced work on 1st December 2006 she worked 10 – 5 Monday to Saturday and then her times were changed to 9 – 4. The respondent said that she never took two weeks holidays. She only took two days off. She had been told that she would not be paid for holidays.

She had no forewarning of deductions being made from her wages. She had never been properly trained for the job. She was just told that her job entailed washing and ironing.

She had a good working relationship with the appellant. She often became emotional but never in front of customers.

Sometimes the respondent was paid by cheque but mostly she was paid in cash. She was paid €350.00 per week. Often she was paid €300 in cheque and a 'top up' of €50 was paid in cash. The respondent said that the appellant wanted her to work more hours. She worked a 42-hour week and told the appellant she could not work the extra hours. On Friday, 8th June 2007 the appellant threw her wages on the table and said if she did not work the extra hours he would deduct money from her wages. The respondent contended that her employment ceased at approximately 4 o'clock that day. The appellant told her not to come in to work the next day (Saturday), as he did not want her on the premises.

On Bank Holiday weeks the respondent was paid €300 but was not paid the 'top up' €50.

The respondent told the Tribunal that she had no contract of employment but had requested that she be furnished with one.

She requested her P45 from the employer several months after her employment was terminated. She commenced a course in September 2007 and finished the course in May. She secured new employment on 25 May 2008.

The respondent told the Tribunal that her family gave her a deposit of between €7000 - €8000 for her new house. The respondent's husband also verified this when questioned by the Tribunal.

Determination:

There is a significant conflict of evidence between the parties. Having heard the evidence the Tribunal varies the decision of the Rights Commissioner and awards the respondent the sum of €812.70 as detailed below under the Payment of Wages Act, 1991:

Non-payment of 8 days holidays:	€464.80
Non-payment of 5 bank holidays:	€290.50
Deductions from wages	€57.40

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

