

## EMPLOYMENT APPEALS TRIBUNAL

### APPEAL OF:

Employee

### Against

Employer

### Under

### CASE NO.

RP530/07

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr S O'Riordan BL

Members: Mr G Mc Auliffe  
Mr F Barry

heard this appeal at Dublin on 19<sup>th</sup> May 2008.

### Representation:

Appellant: Mr John Swords, Operative Plasterers & Allied Trades Society of Ireland,  
72 Shantalla Road, Beaumont, Dublin 9

Respondent : In Person.

The decision of the Tribunal was as follows:

### Respondent's Case

The respondent gave evidence that the appellant commenced work on 10<sup>th</sup> January 2005 on a site in Hanover Quay in Dublin and when work ceased on that site on 6<sup>th</sup> January 2006 the appellant was offered alternative work on a site in Newbridge. The appellant indicated that the Newbridge location was most inconvenient and he had requested and received his P45. The appellant recommenced employment with the company on 23<sup>rd</sup> January 2006 and worked until 28<sup>th</sup> September 2007 when his job ceased. The appellant's service was interrupted through his voluntary leaving the company and he, therefore, had less than two years continuous service with the company and was not entitled to redundancy.

### **Appellant's Case:**

The appellant commenced employment on 10 January 2005 on a site in Hanover Quay in Dublin. When work ceased on that site he was offered alternative work on a site in Newbridge. He was told that accommodation would be arranged for him. He worked there for two days and on 6<sup>th</sup> January 2006 he informed his foreman that the travelling to Newbridge was unsuitable for him. The following day he failed to contact the company to say that he would not be returning to the Newbridge site. At no stage was he told by the foreman that he was on lay-off. He had to pay his own travel expenses. He never asked to be reimbursed for his expenses. He had informed the foreman that it was not working out and that he would look for work in Dublin. The following week he received his P45. On 23<sup>rd</sup> January 2006 he recommenced employment with the company. He believed that he was entitled to redundancy.

### **Determination**

From the evidence adduced at the hearing it is the Tribunal's view that the appellant left his employment of his own volition during the period from 6<sup>th</sup> to 23<sup>rd</sup> January 2006. No lay-off situation existed at that time in the company. Accordingly, as the appellant has less than 104 week's continuous service with the company, his appeal under the Redundancy Payments Acts, 1967 to 2003 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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



