

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
2 Employers

CASE NO.UD661/2007  
PW64/2007

against the recommendation of the Rights Commissioner in the case of:

Employer  
V  
Employee

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2001 PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr E Murray

Members: Mr J Redmond  
Mr T Kennelly

heard this appeal at Galway on 10th June 2008

Representation:

Appellant: In person

Respondent: In person

This case came before the Tribunal by way of an appeal by the employer against the recommendation of a Rights Commissioner Ref: r-042704-ud-06/JH and r-042703-pw-06/JH. The employer was seeking to have the recommendation upset.

The determination of the Tribunal was as follows:

The confluence of the evidence establishes the following facts:

The respondent, the employee, was born on the 18<sup>th</sup> of May 1956. He commenced employment with the respondent on the 1<sup>st</sup> of May 2002. He was dismissed on the 17<sup>th</sup> of February 2006.

The appellant had decided to retire from business at the age of 70, and had made an arrangement to subcontract his security contract with Galway Docks. Said contract was essentially the only business being conducted by the appellant. There is a considerable degree of uncertainty as to what the ongoing role of the appellant in relation to the business was, and it is far from clear that he had become completely separated from the business at the time of the dismissal. Though it is

contended that this was a redundancy, nonetheless, the respondent's job still existed, but was now being done by the subcontractor.

In the circumstances, this division of the Tribunal sees no reason to depart from the conclusions arrived at by the Rights Commissioner, and consequently, with regard to the appeal under the Unfair Dismissals Acts, 1977 to 2001, this division of the Tribunal upholds the findings of the Rights Commissioner dated the 3<sup>rd</sup> of May 2007 and confirms the award of €4000.00 (four thousand euro) in favour of the employee herein. The Tribunal also upholds the decision of the Rights Commissioner with regard to the Payment Of Wages Act, 1991 and, accordingly, awards the employee €440.00 (four hundred and forty euro).

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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