

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

Employee
Employee
Employee
Employee
Employee
Employee

CASE NO.

MN748/2007
RP92/2008
RP93/2008
RP94/2008
RP95/2008
RP96/2008

against

Employer

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Petty

Members: Mr. M. Forde
Dr. A. Clune

heard this claim at Limerick on 28th July 2008

Representation:

Appellant(s): Mr. Michael Kiely, Assistant Branch Organiser, SIPTU, 4 Church Street, St. John's Square, Limerick (*on behalf of the first named appellant only*)

Respondent(s): No appearance or representation

The decision of the Tribunal was as follows:-

Appellants' case:

In his sworn evidence, the first appellant said that he had worked for the respondent on a number of different sites. He said that he was paid by cheque and that his gross wage could vary from week to week. The appellant confirmed the details of his application to the Tribunal.

In their sworn evidence, the second and third appellants confirmed the details of their applications to the Tribunal. They also confirmed that the brother of the owner of the respondent company had

let them go as there was no more work for them, and that they had not received any further payments after this date.

In his sworn evidence, the fourth appellant told the Tribunal that the respondent company had approached him the previous week with an offer to re-commence his job. He said that he had not responded to that job offer as he had not wanted to affect his claim before the Tribunal and he confirmed that he wished to proceed with his redundancy claim. He also confirmed the details of his application to the Tribunal. This appellant said that the brother of the owner of the respondent company had said to him that as there was no more work, he – *the appellant* – was being let go. When asked about redundancy and holiday money, the owner's brother had told this appellant that redundancy and holiday money was not his department. During his last week of employment, the owner's brother had approached him again and told him that he – *the appellant* – was being temporarily let go. The appellant confirmed that he had heard nothing more from the respondent company until last week with the offer of a job.

In his sworn evidence, the fifth appellant said that on finishing with FÁS, he had contacted the respondent to be informed that there was no more work for him. He said that he had received his P45 in the post on 11 November 2007 and applied to amend the end date of his employment.

In his sworn evidence, the sixth appellant confirmed the details of his applications to the Tribunal but applied to amend the end date of his employment.

Respondent's case:

The Tribunal was satisfied that the respondent had been properly notified of the hearings. However, there was no appearance by them or on their behalf.

Determination:

Accepting the uncontested evidence of the first appellant, his claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 succeeds and the Tribunal awards him €535.00, this being the equivalent of one weeks pay.

Accepting the uncontested evidence of the remaining five appellants, the Tribunal finds that their appeal under the Redundancy Payments Acts, 1967 to 2003 succeeds and they are awarded a redundancy lump sum, which is to be calculated on the basis of the following criteria:

Appellant 2 (Rp92/2008)

| | |
|-----------------------|------------------|
| Date of Birth: | 26 March 1986 |
| Date of Commencement: | 22 August 2005 |
| Date of Termination: | 13 December 2007 |
| Gross Weekly Wage: | €628.86 |

Appellant 3 (Rp93/2008)

| | |
|-----------------------|------------------|
| Date of Birth: | 25 February 1979 |
| Date of Commencement: | 06 October 2005 |
| Date of Termination: | 13 December 2007 |
| Gross Weekly Wage: | €650.00 |

Appellant 4 (Rp94/2008)

Date of Birth: 17 August 1971
Date of Commencement: 11 March 2004
Date of Termination: 13 December 2007
Gross Weekly Wage: €1278.00

Appellant 5 (Rp95/2008)

Date of Birth: 15 May 1985
Date of Commencement: 05 January 2004
Date of Termination: 01 December 2007
Gross Weekly Wage: €627.39

Appellant 6 (Rp96/2008)

Date of Birth: 13 August 1956
Date of Commencement: 21 October 2003
Date of Termination: 30 October 2007
Gross Weekly Wage: €1500.00

These awards are made subject to the appellants having been in insurable employment under the Social Welfare Acts during the relevant period.

Furthermore, please note that a weekly ceiling of €600.00 applies to all payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)