

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

Employer

PW95/2008

CASE NO.

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. F. Cunneen
Mr. P. Woods

heard this appeal at Dublin on 25th July 2008

Representation:

Appellant(s): Mr. Christian Kranp, 27 Manor Grove, Tralee, Co. Kerry

Respondent(s): Mr. Blazei Nowak, 19 Talbot Street, Dublin 1

The decision of the Tribunal was as follows:-

This case came before the Tribunal by way of an appeal by the employer (*hereinafter referred to as the appellant*) against the decision of a Rights Commissioner; r-057340-pw-07/SR dated 22 April 2008.

Respondent's case:

The position of the respondent's representative was that under Section 7(2) of the Payment of Wages Act, 1991, the Tribunal had no jurisdiction to hear this appeal against the decision of the rights commissioner as the respondent – *his client* – had not been put on notice by the appellant of the appeal.

Appellant's case:

Replying to the Tribunal, the respondent confirmed that he had lodged his appeal against the decision of the rights commissioner in writing to the Tribunal but he had not put the respondent on notice of his appeal. He explained that he had not been aware that the other side had to be on notice

of his appeal. He also said that the company is now in liquidation but it was not in liquidation at the time of the hearing before the rights commissioner.

Determination:

No documentary evidence was opened to the Tribunal to confirm that this company is in liquidation.

Section 7(2) of the Payment of Wages Act, 1991, provides:

“An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the date on which the decision to which it relates was communicated to him-

(a) a notice in writing to the Tribunal containing such particulars (if any) as may be specified in regulations under subsection (3) and stating the intention of the party concerned to appeal against the decision, and

(b) a copy of the notice to the other party concerned.”

The Tribunal determines that as the appellant has not complied with the mandatory statutory requirements for a valid appeal, pursuant to the provisions of section 7(2)(b) of the Payment of Wages Act, 1991, a valid appeal was not before it. In such circumstances, the Tribunal determines that it has no jurisdiction to hear and determine any such appeal from the decision of the rights commissioner. It therefore follows that this appeal against the decision of the rights commissioner under the Payment of Wages Act, 1991, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)