

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
Employee

CASE NO.
RP480/2007
WT304/2007

Against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
UNFAIR DISMISSALS ACTS, 1977 TO 2001
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001
ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. E. Daly B.L.

Members: Mr. D. Morrison
Mr G. Hunter

heard this claim at Letterkenny on 31st July 2008

Representation:

Claimant(s): Mr Patsy Gallagher, Gallagher & Brennan Solicitors, Kilmacrennan Road,
Letterkenny, Co Donegal

Respondent(s): No appearance by or on behalf of the Respondent

The determination of the Tribunal was as follows:-

The appellant gave evidence that he commenced employment with the Respondent on the 1st October 2003. On the 7th September 2007 the foreman informed him that there was no work for him. He then contacted a Director of the company and was told to remove his materials. He had taken two weeks holidays and was owed for another two from the company. He had commenced employment for another company a week later.

The Tribunal was satisfied that a redundancy situation existed, accordingly, awards the appellant a statutory redundancy lump sum under the Redundancy Payments Acts, 1967 to 2003 and based on the appellant's continuous service and the following information:

Date of Birth: 21st June 1974
Date of Commencement: 1st October 2003
Date of Termination: 7th September 2007
Gross Weekly Wage: €556.97

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

The country money and expenses which was being received weekly by the claimant, is not considered in the calculation of his gross weekly pay for the purpose of redundancy as expenses are not defined as wages under the Payment Wages Act 1991.

The Tribunal is satisfied on the basis of evidence that the employment terminated without notice. Therefore loss being established, the Tribunal awards the appellant one week payment in lieu of notice in the amount of €556.97, under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

The claim under the Organisation Of Working Time Act, 1997, succeeds and the Tribunal awards the appellant the sum of 1113.94, in lieu of ten days holiday pay.

As the Unfair Dismissals Act 1977 - 2001 and the Redundancy Payments Acts 1967 – 2003 are mutually exclusive the claim under the Unfair Dismissal Act fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

