

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
Employee

CASE NO. RP401/2007

Against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J Fahy

Members: Mr T Gill
Mr T Kennelly

heard this appeal at Galway on 10th July 2008

Representation:

Appellant: In person

Respondent: Mr. Stephen Sands,
Construction Industry Federation, Construction House, Canal Road, Dublin 6W

The decision of the Tribunal was as follows:

Appellant's Case

The appellant commenced his employment as a general labourer with the company in August 2002.

He generally worked in the Mayo/Galway area but had on occasions travelled further for short periods of time. In July 2007 the metering job he was working on in Galway finished. The job then moved to Co. Clare, which was at least 100 miles from his home and meant he would have to stay over. He was paid 'lodge' of €168.54 per week for travelling 35 miles to get to a job.

The appellant asked for a position in one of the sites in Sligo or Claremorris, but was told there were none available. He had not signed anything to say that he was prepared to travel and wished to be able to travel home in the evenings as he had a young family. The appellant was seeking a redundancy payment, but was told he could not have one.

Respondent's Case:

The respondent disputed that a redundancy situation existed as the appellant had to be replaced. The Contracts Director gave evidence that the company increased its staff in 2007. The Claremorris site was with Iarnrod Eireann and required a day's training, and the job in Sligo was at its peak. All

other employees went to Clare or Limerick when the Galway job finished. The Finance Director gave evidence that all employees were expected to move from site to site.

A Senior Foreman (SF) who had been responsible for eight crews in Galway gave evidence that he told the appellant and other staff that the metering job in Galway was coming to an end and that they would be going to Clare. The appellant refused and asked to be given notice, which SF refused to do. There was no issue previously with the appellant travelling. SF checked if there were other positions available in Galway/Mayo, as requested by the appellant, but there were none. Another employee who went to the Claremorris site had previously worked in Tullamore.

Determination:

Having considered all the adduced evidence the Tribunal determines that a genuine redundancy situation did not arise in this case. Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2003 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)