

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
Employee

CASE NO. RP173/2008

against
Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms E Kearney

Members: Mr J Hennessy
Ms P Doyle

heard this appeal at Clonmel on 30th July 2008

Representation:

Appellant: In person

Respondent: John Shee & Company, Solicitors
28 Parnell Street, Clonmel, Co. Tipperary

The decision of the Tribunal was as follows:

The appellant commenced his employment at the respondent's mushroom farm in May 2001. The appellant's duties included organising orders, the pickers and doing deliveries. Prior to the appellant taking his holidays, from 20th June until 20th July 2007, he noticed that the tunnels weren't being replaced with crops. When the appellant returned from holidays there was only half a tunnel of mushrooms left. When the appellant asked the respondent what was happening the respondent told him that the farm was closed. The respondent offered the appellant bits of work to do around the farm during August, which he did, though the remuneration was less than a third of his previous wages. The appellant also worked for two days for the respondent's brother. The appellant told the respondent that he had applied for a job elsewhere. The appellant denied that the respondent offered him a job as driver for a milk round that the respondent was securing. The appellant secured other employment at the end of August and sought his P45 which was issued on the 1st September 07. The respondent offered him a delivery run on Saturdays after he had begun his other employment but he was unable to take it.

The respondent stated that when the appellant returned from his holidays to find that the farm had closed, he offered him odd jobs around the farm, though on fewer hours than he had previously worked. He also secured some work for the appellant from his brother. He secured a contract for a milk round on 11th August, to begin on 28th August, and after that discussed the position of driver

with the appellant but he turned it down. He also offered a fruit delivery run which the appellant turned down. The respondent did not consider that the appellant was entitled to a redundancy payment as he was still offering the appellant employment, which was turned down, and the appellant had sought his P45.

Having heard the evidence adduced at the hearing the Tribunal finds that a redundancy situation existed and therefore the appeal under the Redundancy Payments Acts succeeds. The appellant is awarded a redundancy lump sum based on the following criteria:

Date of Commencement	28 th May 2001
Date of Termination:	1 st September 2007
Gross Weekly Pay:	€373.70

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)