

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

Employee

RP653/2007

against

Employer

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. J. Fahy B.L.

Members: Mr. B. O'Carroll  
Ms. H. Henry

heard this appeal at Athlone on 3rd October 2008

#### **Representation:**

Appellant(s): Mr. Niall Cunningham, Byrne Carolan Cunningham, Solicitors, Main Street,  
Moate, Co. Westmeath

Respondent(s): No appearance or representation

The decision of the Tribunal was as follows:-

#### **Appellant's case**

In his sworn evidence, the appellant said that he had worked as a manager for the respondent company, an agri-business. He commenced employment in March 1986 for company A. In June 1994, a merger between two businesses resulted in the formation of the respondent company. His first employer informed him that there would be no break in his service. Replying to a Tribunal query, the appellant confirmed that no break in his service had occurred and he had not been made redundant at that time.

In March 2006, the appellant was informed that one of the parties in the merged business had sold its 50% share to the other party. When the appellant had asked about his options, he was told that alternative employment or redundancy was on offer. Some days later at a meeting in local hotel, he was informed that the alternative employment would be based around Mountmellick. The appellant opted for redundancy.

In examination from the Tribunal, the appellant explained that the location of the alternative employment was a journey of about 40 miles, an 80 mile round trip. The appellant's accountant had written to the respondent in relation to the appellant's choice of redundancy. Subsequently, by letter dated 31 October 2007, the appellant's legal representative had also written to the respondent in relation to same. A copy of this letter was opened to the Tribunal. The appellant confirmed that no reply was received from the respondent.

The appellant explained that subsequent to having been made redundant, he had opened his own agri-business. This business commenced trading some weeks after the closure of the respondent and operates from new premises, which is two miles in distance from the location of the respondent's premises.

The appellant's representative told the Tribunal that he believed that the respondent's premises had been sold to a developer and that this building is now in a ruin.

### **Respondent's case**

The Tribunal is satisfied that the respondent was properly notified of this hearing. Neither they nor a representative on their behalf appeared for the hearing of the case.

### **Determination**

Based on the uncontested evidence of the appellant, the Tribunal is satisfied that his employment ended by reason of redundancy. Accordingly, the Tribunal finds that the appellant is entitled to a redundancy lump sum under the Redundancy Payments Acts 1967 to 2003 based on the following criteria:

Date of Birth	04 April 1967
Date employment commenced	03 March 1986
Date employment ended	31 December 2006
Gross weekly salary	€804.81

It should be noted that a statutory ceiling of €600.00 per week applies to payments from the Social Insurance Fund. Furthermore, this award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

