

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employee

RP454/08

Against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Cagney BL

Members: Mr P. Pierce
Ms E. Brezina

heard this appeal at Dublin on 10th September 2008.

Representation:

Appellant: XXXX

Respondent: No appearance by or on behalf of the respondent.

The decision of the Tribunal was as follows:-

Appellant's Case:

The appellant commenced employment in mid October 1990 with the respondent. She was employed as an In-Store Demonstrator. She worked three days per week Her hours of work were from 10.00 am to 3.30 pm Thursdays and Fridays and from 10.00 am to 4.45 pm on Saturdays. She did not receive a contract of employment. She contended she worked almost every week until April 2004 when she received her last pay cheque.

In telephone calls to the respondent subsequent to April 2004 the appellant was told that when work became available she would be contacted. After some time she found it difficult to contact the respondent and sought and secured work elsewhere. She never received a P45 from the respondent.

On 15 January 2007 the appellant enquired from the Companies Registration Office if the respondent had been registered with that office. Confirmation was received that both Kota Enterprises Limited and Jolly Agency were both registered.

On 13 March 2007 the appellant wrote to the respondent indicating that she had not received any notice of cessation of her employment and had never received a P45. She also indicated in that letter that she thought she might be entitled to a redundancy payment.

Approximately six months prior to the appellant initiating an appeal with this Tribunal she lodged a claim under the Unfair Dismissals Acts and Organisation of Working Time Act with the Rights Commissioner Service. The Rights Commissioner Service furnished the appellant with a copy of a letter, which had been submitted by the respondent to them, indicating that the respondent had closed down. This letter was dated 5 October 2007. It was on this date that the appellant became aware that the company had closed down.

Respondent's Case:

No evidence adduced.

Determination:

The Tribunal is satisfied that the respondent was properly on notice of the hearing. Neither the respondent nor a representative on its behalf attended the hearing.

Appeals under the Redundancy Payments Acts, 1967 to 2003 must be submitted to the secretariat of the Employment Appeals Tribunal within fifty-two weeks of the appellant's date of termination. Appeals lodged after the aforesaid period but within the period of one hundred and four weeks from the date of termination, may be considered subject to the appellant demonstrating reasonable cause for the delay in furnishing such an application within the time limit.

Section 12 (2) (b) of the Redundancy Payments Act, 1971 states:

“(2A) Where an employee who fails to make a claim for a lump sum within the period of 52 weeks mentioned in subsection (1) (as amended) makes such a claim before the end of the period of 104 weeks beginning on the date of dismissal or the date of termination, the Tribunal, if satisfied that the employee would have been entitled to a lump sum and that the failure was due to a reasonable cause, may declare the employee to be entitled to the lump sum and the employee shall there-upon become so entitled”.

The appellant last worked with the respondent in April 2004 and the appeal was lodged with the Tribunal on 15th May 2008, therefore outside the time limit for making such appeal. The appellant failed to satisfy the Tribunal that there was any reasonable cause for the delay in lodging her appeal. Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2003 is dismissed.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

