

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
Employer

CASE NO. PW51/2008

against the recommendation of the Rights Commissioner in the case of:

Employee
v
Employer

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J Flanagan BL

Members: Mr D Winston
Mr P McAleer

heard this appeal at Cavan on 3rd December 2008

Representation:

Appellant: In person

Respondent: No appearance or representation

This case came before the Employment Appeals Tribunal by way of an appeal from a recommendation of a Rights Commissioner reference number r-054300-pw-07/SR.

The decision of the Tribunal was as follows:

Determination

The recommendation of the Rights Commissioner the subject of this appeal is dated 15th January 2008. The Tribunal notes that the Tribunal received the appeal forms on 31st March 2008. The Tribunal also notes that a letter was issued by a member of the Secretariat to the Tribunal, also dated 31st March 2008, and sent to the appellant indicating that the matter appeared to be statute barred and seeking instructions from the appellant prior to further processing the appeal. By way of an undated letter received on 4th April 2008 the Secretariat was requested by the appellant to continue to process the appeal.

There was no appearance by the respondent and registered letters sent to the respondent at the address furnished by the appellant to the Tribunal Secretariat were returned marked "unknown at this address" and "not called for" respectively.

Amongst the small number of documents furnished by the appellant the Tribunal notes the presence of a fax sent to the appellant by the respondent and dated 10th March 2008 in which it is stated that for "... further questions and payment detail please contact ..." and a name and telephone number is given. The appellant admitted that he had not attempted to use the contact name and telephone number supplied to him by the respondent but instead had used for the purposes of his appeal the last address of the respondent known to the appellant, even though the appellant was aware that the time that the respondent was no longer resident at that address. In the circumstances the Tribunal finds it unsurprising that there was no appearance by the respondent.

The Tribunal have no jurisdiction to hear this appeal as the notice of appeal was not served on the respondent and the matter is now statute barred and the recommendation of the Rights Commissioner therefore stands.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)