

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

Employee

against

Employer

under

CASE NO.

RP786/2008

MN850/2008

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J Flanagan BL

Members: Mr C McHugh
Mr P Trehy

heard this appeal at Dublin on 16th December 2008

Representation:

Appellant: Mr Blazej Nowak, Emigrant Advice Centre, 19 Talbot Street, Dublin 1

Respondent: No appearance or representation

The decision of the Tribunal was as follows:

Appellant's case:

By letter dated 4th July 2008, the respondent terminated the appellant's employment. (*A copy of this letter was opened to the Tribunal*). In same, it was stated "...I have to give you two weeks Notice of Termination of Employment and Redundancy...due to a sharp and prolonged downturn...Redundancy will take place from two weeks from today on Friday 18/0708...There isnot enough work available and this does not look likely to change in the foreseeable future".

The appellant's employment was meant to terminate on 18th July 2008 but due to further work being secured by the respondent, employment did not end until 31st July 2008. It was confirmed to the Tribunal that the appellant got notice of this new termination date, this new notice being of a period of greater that two weeks. However, the appellant was not paid for the last week that he worked. Accordingly, an application was made to withdraw the appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

Determination:

The Tribunal was satisfied that the notice of hearing was duly served on the respondent. However, there was no appearance by them or on their behalf. Subsequent to the issue of the notice of hearing, e-mails were received from the respondent advising the Tribunal that they would not be present at the hearing due to reasons of ill health. The Tribunal notes that no medical certificate was submitted to support this contention.

The Tribunal is satisfied on the basis of the uncontroverted evidence before it that the appellant was dismissed by reason of redundancy. Accordingly, the Tribunal determines that the appeal under the Redundancy Payments Acts, 1967 to 2003 succeeds and awards the appellant a redundancy lump sum, which is to be calculated based on the following criteria:

Date of birth:	8 th December 1948
Date of commencement:	18 th November 2005
Date of termination:	31 st July 2008
Gross weekly wage:	€560.00

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

The Tribunal notes that appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 was formally withdrawn in light of a claim being made to the rights commissioners service for non-payment of wages.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)