

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:  
Employee

CASE NO.  
RP535/2007

against

Employer

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2003**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. M. Gilvarry

Members: Mr. D. Morrison  
Ms. R. Kerrigan

heard this appeal in Letterkenny on 3 November 2008

Representation:

\_\_\_\_\_

Appellant(s):  
In person

Respondent(s):  
No attendance or representation at 3 November 2008 hearing

The decision of the Tribunal was as follows:-

This case was listed for 28 July 2008 but on 22 July 2008 the respondent appeared before a division of the Tribunal to seek a postponement due to his wife being seriously ill. The appellant consented to a postponement being granted and the case was indeed postponed. The Tribunal expressed its best wishes to the respondent and his wife.

The case was next listed for 3 November 2008. The appellant was in attendance but the respondent was absent. The appellant said that he had not seen the respondent since he had worked for the respondent. After the Tribunal waited twenty-five minutes the chairman of the division asked the appellant if a phonecall could be made to the respondent given that the respondent had previously obtained a postponement.

A phonecall to the respondent was not answered but a voicemail message was left to say that the hearing of the case by the appellant against the respondent was listed for that afternoon. A second

phonecall to the respondent was also not answered.

The chairman of the Tribunal division told the appellant that the Tribunal was obliged to be fair to him and the hearing proceeded.

### **Appellant's Case**

Giving sworn testimony, the appellant said that on 21 June 2004 he had started working on a golf course. He cut grass and did greens. He worked as a groundsman from 8.30 a.m. to 5.30 p.m. (with two half-hour breaks) five days per week.

Two years after the appellant started, his employment changed. The golf course was sold to the respondent. The appellant got no redundancy at that time. The golf course was just handed over to the respondent. The appellant told the Tribunal that he had never had a written contract.

The appellant was never brought back after his 2006 Xmas holidays. There were subcontractors there when his work ended. They were doing work for a new golf course. The appellant tried phoning the respondent about wages. There was no answer from the respondent's phone on Xmas Eve. The respondent's son said that he would meet the appellant to give him his wages. He did so. The appellant asked about holidays and was told that, regarding holidays, they would wait to see when the appellant came back.

The appellant went back on 8 January 2007. A subcontractor was putting in a gate to block people from going in until he got his money sorted out. The appellant sought a redundancy award from the Tribunal. He said that his pay had varied some weeks, that he did not know if the respondent had paid his stamp, that some weeks he got cash and that other weeks he got a cheque. One cheque bounced but he was told to send it back and it cleared then. The appellant stated his pay on his appeal form to the Tribunal to be €285.00 cash. This was estimated to equate to €311.00 gross.

The appellant said that his employer had been the respondent. There was no company set up at that time. A company was to have been formed but it never happened.

### **Determination:**

On 3 November 2008 the chairman of the Tribunal division informed the appellant that his redundancy appeal was granted based on the information he had provided. The appellant was told to check if his stamp had been paid and that the Tribunal would send out its decision.

Given that the appellant's redundancy appeal was uncontested, the Tribunal found that he was dismissed by way of redundancy.

Therefore, the Tribunal found that the appellant is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2003, based on the following details:

Date of birth	06 May 1980
Date employment commenced	21 June 2004
Date employment ended	22 December 2006
Gross weekly salary	€311.00

(It should be noted that payments from the social insurance fund are limited to a maximum of

€600.00 per week.)

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)