

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
Employee - appellant

CASE NO.
RP842/2009

against
Employer – respondent
Employer – respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr D Cagney BL

Members: Mr D Winston
Mr J Dorney

heard this appeal at Dublin on 5th January 2010

Representation:

Appellant: In person

Respondents: In person

The decision of the Tribunal was as follows:

Respondent's Case:

The respondents dispute the appellant's appeal for a redundancy payment as they contend that in June 2008 she requested more time to complete her apprenticeship, which they had allowed.

The first named respondent gave evidence that at the end of the four years the appellant told her she was nervous about cutting hair on her own and asked for more time. The respondent agreed to give the appellant a further three months. She improved and they decided to keep her training for the rest of the year. The appellant was paid fourth year wages in her fifth year, which are higher than qualified hairdresser rates as they are entitled to commission.

An apprentice could take three to five years to train. The appellant was slower because she did not bring enough models for cutting. The appellant also refused to do a men's hair cutting course. The witness produced a duplicate apprenticeship card for the appellant, provided by the Office of Joint Labour Committees (JLC), which stated a commencement date of 6th January 2004 and a

termination date of 15th January 2009. The card was filled in by the JLC. The appellant did not undergo examination as part of her apprenticeship. The respondents decide when an apprentice is ready after four years training.

Towards the end of her training the respondents allowed the appellant time off to seek new employment. She found work within a week and the respondents paid her for a month while she was on trial in the new job. The witness disputed the appellant's contention that she needed to attend more training courses.

The second named respondent stated that the appellant had asked for more time. By the end of her fifth year the salon had too many staff, and needed to move staff on in order to take on a new apprentice hairdresser.

Appellant's Case:

The appellant contended that she completed her hairdressing apprenticeship after four years with the respondents, having commenced on 10th January 2004. She concurred with the respondents' evidence that she was nervous about cutting hair on her own, but she contended that she was never told that her training was being extended. The appellant understood that her apprenticeship was completed after her fourth year. The first named respondent did not say that her apprenticeship was over and the appellant did not ask, she just presumed it was. The respondents had then employed her for a further year before letting her go on February 2nd 2009. The appellant held a different JLC apprenticeship card, which had different dates on it.

The appellant sought to go on training courses to improve her confidence, but she was only sent on one. The appellant believed that she was kept on the fourth year rate of pay as she was not doing as much as the other stylists were. The appellant contended that after her fourth year she was given her own column in the bookings book, which she believed signified that a hairdresser was qualified.

She agreed that the respondents paid her while seeking other employment. The appellant asked the first named respondent for an RP50 form, but she told her that she was not entitled to a redundancy payment.

During cross-examination the appellant agreed that she had refused to do a men's hair cutting course. She wanted to cut women's hair first. She stopped bringing models to the training evenings as they were either cancelled, or she did not receive any supervision. She did not believe she was on fourth year wages, but just that her wages had stayed the same. Occasionally she received extra pay. She contended that if her apprenticeship was being extended she should have signed something. She denied having ever seen an undated letter signed by the respondents, and date stamped 4th February 2009 with a Labour Court stamp, which stated that her apprenticeship had been extended by mutual agreement to the 15th January 2009.

Determination:

There was clearly a clash of views as to whether the appellant's apprenticeship was extended or not. In the absence of any documents the Tribunal determines that the appellant's apprenticeship ended after her fourth year and that she was re-employed for a further year. Accordingly, the Tribunal finds that the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following information:

Date of Birth: 9th October 1985
Date of Commencement: 10th January 2004
Date of Termination: 2nd February 2009
Gross weekly pay: €356.15

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)