

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

2 Employees

CASE NO.

UD1076/2008

UD1077/2008

for implementation of the recommendations of the Rights Commissioner
in the case of:

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Petty

Members: Mr. G. Phelan
Dr. A. Clune

heard these appeals in Limerick on 27 November 2008

Representation:

Claimant(s):

Mr. Ger Kennedy, SIPTU,
Connolly Hall, Churchwell, Tipperary Town, Co. Tipperary

Respondent(s) :

Mr. Patrick Punch, David Punch & Co., Solicitors.
11 Glentworth Street, Limerick

This case came before the Tribunal by way of two employees (the appellants) appealing for implementation of Rights Commissioner Recommendation r-040728-ud-06/POB and Rights Commissioner Recommendation r-040731-ud-06/POB under the Unfair Dismissals Acts, 1977 to 2001.

The determination of the Tribunal was as follows:-

Appeals for implementation of Rights Commissioner Recommendations do not constitute hearings on the merits of the issues decided by the Rights Commissioner. Section 7 (4) (a) of the Unfair Dismissals Act, 1977 to 1993, states:

“Where a recommendation of a rights commissioner in relation to a claim for redress under this Act has not been carried out in accordance with its terms, the time for bringing an appeal against the recommendation has expired and no such appeal has been brought, the employee concerned may bring the claim before the Tribunal and the Tribunal shall, notwithstanding subsection (5) of this section, without hearing the employer concerned or any evidence (other than in relation to the matters aforesaid), make a determination to the like effect as the recommendation.”

The Tribunal gave the parties the opportunity to be heard and to give evidence but the Tribunal heard nothing to indicate that Rights Commissioner Recommendation r-040728-ud-06/POB and Rights Commissioner Recommendation r-040731-ud-06/POB had been either implemented or appealed. Therefore, as the legislation requires, the Tribunal makes a determination to the like effect as the recommendations.

Accordingly, the Tribunal determines, under the Unfair Dismissals Acts, 1977 to 2001, that the respondent company must pay the sum of €10,000.00 to the first-named appellant as stated in Rights Commissioner Recommendation r-040728-ud-06/POB and the sum of €10,000.00 to the second-named appellant as stated in Rights Commissioner Recommendation r-040731-ud-06/POB.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)