

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

Employee

- *appellant*

CASE NO.

RP804/2008

MN869/2008

against

Employer

- *respondent*

under

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. D. MacCarthy S C

Members: Mr. T. O'Sullivan
Mr. O. Nulty

heard this appeal at Dundalk on 3rd February 2009

Representation:

Appellant: Mr. Aaron Shearer BL instructed by Simon McArdle of
Woods Ahern Mullen, Solicitors, Elgee Building, Market Square,
Dundalk, Co. Louth.

Respondent: Mr. Mark Cassidy of P. Tallon & Co, Solicitors, The Haymarket,
Drogheda, Co. Louth.

The decision of the Tribunal was as follows:-

No T2 was lodged prior to the Hearing. The Tribunal exercised its discretion and allowed the respondent to be heard.

Appellant's Case

The appellant gave evidence. He worked as an electrician. He worked on industrial jobs, did domestic work and installed alarms. He also helped out in the office.

Financial difficulties started in 2008. There was not enough money to pay wages. The appellant asked that the others be paid first and said that he could be paid later when there was money. However the appellant never got the money.

On his last day at work, he met the respondent in the garage of a house where he was working. He

asked for money. The respondent was unable to pay his outstanding wages. He asked the respondent if there was work the next day and was told no.

Respondent's Case

He had been in business for about 12 years. He did not recall the conversation with the appellant in the garage. Wages were always paid intermittently.

In March 08 he was unable to pay wages. He was owed money. He told his three employees including the appellant that he would pay them. They left work at midday. He expected them back when the money came in. The appellant phoned him a few times but the money had not come in.

Determination

The Tribunal carefully considered the evidence adduced in this case. The Tribunal finds that the appellant was dismissed in accordance with the provisions of Section 9 (1) (c) of the Redundancy Payments Act, 1967. The appellant is awarded a redundancy lump sum based on the following information:

Date of Birth:	04 November 1983
Date of commencement:	12 March 2002
Date of termination:	12 March 2008
Gross weekly pay:	€680.00

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.

As the appellant terminated his contract of employment, he is not entitled to an award of minimum notice. The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

