

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:  
2 Employees

CASE NO.  
RP121/2008  
MN1180/2008

RP122/2008  
MN1181/2008

against

3 Employers - respondents

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. E. Murray

Members: Mr. J. Hennessy  
Ms. H. Kelleher

heard these appeals in Waterford on 19 January 2009

Representation:

Appellant(s) :

The two appellants were represented by  
Mr. Paul Treacy, Treacy and Mullins, Solicitors,  
17 Queen Street, Tramore, Co Waterford

Respondent(s) :

XXXX was represented by  
Mr. Fred Binchy, Binchy Solicitors,  
Quayhouse, Clonmel,  
Co. Tipperary

The decision of the Tribunal was as follows:-

## **Appellant A v. XXXX**

This matter came before the Tribunal by way of appeal under the Redundancy Payments Acts, 1967-2007, and claim under the Minimum Notice and Terms of Employment Acts, 1973-2001.

The appellant in this case commenced work with the respondent on the 23<sup>rd</sup> September 1999. She received no notice of dismissal and her employment ended on the 2<sup>nd</sup> October 2007 on the closure of the XXXX in XXXX Co Waterford, in which she worked.

The only matter in issue in this case is the identity of the employer.

The Tribunal has heard evidence that there is a dispute over the ownership of the premises. XXXX and their respective XXXX each appear to have some legal interest in the property where the business was conducted, and there has been litigation between these parties with regard to the establishment of the respective parties' interests in same.

The Tribunal's attention has been brought to proceedings in which XXXX asserts ownership of the premises and business. This is relied upon as being persuasive in establishing that XXXX was in fact one of the employers of the appellant herein.

The appellant herself has given evidence that she regarded the respondents, XXXX, to be her employers, and that she took her instructions from XXXX. She produced her P45 on which her employers were recorded as XXXX. The Tribunal also heard that the licensee of the premises at the time of closure was XXXX.

The Tribunal is not concerned with the issue of ownership of the business or premises and is solely concerned with the identity of the employer.

It is clear that the appellant took her instructions from XXXX. Furthermore, the only official documentation to be produced to the Tribunal records XXXX as being the employers. XXXX was the licensee of the premises at the time of the closure.

Having regard to the evidence heard by the Tribunal, the Tribunal concludes that XXXX and they alone were the appellant's employers and consequently, finding that the appellant is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007, makes the following findings:

1. The appellant who was born on the 18<sup>th</sup> April 1959 was employed by XXXX.
2. She commenced employment on the 14<sup>th</sup> November 2000 and was made redundant on the 2<sup>nd</sup> October 2007.
3. Her gross weekly pay at the time of her redundancy was €360.00 per week.

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

The appellant claims under the Minimum Notice of Terms of Employment Acts, 1973 to 2001, too and in this regard the Tribunal finds the appellant is entitled to succeed in her claim and makes an award in her favour of €1,440.00.

## **Appellant B v. XXXX**

This matter came before the Tribunal by way of an application under the Redundancy Payments Acts, 1967-2007, and the Minimum Notice and Terms of Employment Acts, 1973-2001.

The appellant in this case commenced work with the respondent on the 23<sup>rd</sup> September 1999. She received no notice of dismissal and her employment ended on the 2<sup>nd</sup> October 2007 on the closure of the XXXX, Co Waterford in which she worked.

The only matter in issue in this case is the identity of the employer.

The Tribunal has heard evidence that there is a dispute over the ownership of the premises. XXXX, and their respective XXXX each appear to have some legal interest in the property where the business was conducted, and there has been litigation between these parties with regard to the establishment of the respective parties interests in same.

The Tribunal's attention has been brought to proceedings in which XXXX asserts ownership of the premises and business. This is relied upon as being persuasive in establishing that XXXX was in fact one of the employers of the Applicant herein.

The appellant herself has given evidence that she regarded the respondents, XXXX, to be her employers, and that she took her instructions from XXXX. She produced her P45 on which her employers were recorded as XXXX. The Tribunal also heard that the licensee of the premises at the time of closure was XXXX.

The Tribunal is not concerned with the issue of ownership of the business or premises and is solely concerned with the identity of the employer.

It is clear that the appellant took her instructions from XXXX. Furthermore, the only official documentation to be produced to the Tribunal records XXXX as being the employers. XXXX was the licensee of the premises at the time of the closure.

Having regard to the evidence heard by the Tribunal, the Tribunal concludes that XXXX and they alone were the Applicant's employers and, finding that she is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007, consequently makes the following findings:

1. The appellant who was born on the 11<sup>th</sup> November 1963 was employed by XXXX, Co Waterford.
2. She commenced employment on the 23<sup>rd</sup> September 1999 and was made redundant on the 2<sup>nd</sup> October 2007.
3. Her gross weekly pay at the time of her redundancy was €255.00 per week.

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

The appellant herein also makes a claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001, and in this regard the Tribunal finds the appellant is entitled to succeed in her claim and makes an award in her favour of €1,020.00.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)