

**EMPLOYMENT APPEALS TRIBUNAL**

**APPEAL(S) OF:**

Employee

– *appellant*

**CASE NO.**

RP927/2008  
MN993/2008

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: Ms. B. Glynn

Members: Mr. G. Phelan  
Mr. T. Kennelly

heard this appeal at Limerick on 27th March 2009

**Representation:**

Appellant(s): Mr. John Ahern, Information Officer, Citizens Information Service,  
54 Catherine Street, Limerick

Respondent(s): No appearance or representative

The decision of the Tribunal was as follows:-

**Appellant's case:**

The appellant confirmed the details of his employment as set out on the T1-A form (*Notice of Appeal*). In sworn evidence, he said that he had worked for the respondent from Monday to Friday as a driver/general labourer. The respondent was described as a building contractor.

Work with the respondent began to dry-up towards the end of December 2007. The respondent continued to employ the appellant on a week-to-week basis from January 2008 until April 2008, working on the respondent's own house.

The appellant was paid at the end of the last week worked by him. On that last Friday, he asked the respondent about work for the following week. The respondent had replied that they were finished and it was the end of the road. The tenders he had made for other work had not been successful. The respondent said that if he got back on his feet and found other work, he would get back to the appellant. The appellant had not raised the issue of redundancy with the respondent at that stage. Subsequently, he asked the respondent's accountant about redundancy when he called to collect his

P60 form.

**Respondent's case:**

The respondent's T2 form (*Notice of Appearance*) was received by the Tribunal on 13 November 2008. Stated in part thereon "Work dried up in Jan 08. So I put it to my employees that I might have to leave them go. (I had work priced but it still had not materialised)...So they agreed to stay with me but I had to let them [*the employees*] go in May 08 because my tenders were not successful". (*Sic*)

**Determination:**

The Tribunal was satisfied that the respondent had been duly notified of the hearing in accordance with its procedures and based on the information supplied on the T1-A form. However, there was no appearance by him or on his behalf.

Accepting the uncontested evidence of the appellant, the Tribunal finds that a redundancy situation existed. Accordingly the appeal under the Redundancy Payments Acts, 1967 to 2003 succeeds and the Tribunal awards the appellant a redundancy lump sum, which is to be calculated on the basis of the following criteria:

Date of birth:	23 October 1973
Date of commencement:	26 April 2004
Date of notice:	01 May 2008
Date of termination:	01 May 2008
Gross weekly wage:	€510.00

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

In respect of the minimum notice claim, the Tribunal finds that the respondent had not place the appellant on short time or in a lay-off situation, nor did the appellant receive any notice of the termination of his employment from the respondent. Accordingly, the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 succeeds and the Tribunal awards the appellant the sum of €1,020.00 in lieu of notice, this being the equivalent of two week's pay.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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