

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
Employee

CASE NO.  
*-appellant* RP923/2008,  
MN986/2008

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. Mahon B L

Members: Mr C. McHugh  
Mr G. Lamon

heard this appeal at Wicklow on 3rd April 2009

### **Representation:**

Appellant : In person

Respondent : No representation listed

The decision of the Tribunal was as follows:

This case was notable in that neither party could furnish any relevant documentation on its particular circumstances. Based on the oral evidence it is clear that the respondent's offer of an alternative position to the appellant potentially placed him in a position where his employment status with the respondent would have fundamentally changed. It would have effectively placed him on a contract for services basis thus depriving him of an employee status. The appellant exercised his right not to accept this offer from the respondent. His position within the respondent was not replaced.

Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2003 succeeds and the Tribunal awards him a statutory lump sum under those Acts and based on the following:

Date of Birth: 19 May 1986  
Date of Commencement: 12 June 2006  
Date of Termination: 4 July 2008  
Gross Weekly Wage: €422.50

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

The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 is also allowed and the appellant is awarded €422.50 as compensation for one week's notice.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

