

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

Employee - *appellant*

against

Employer - *respondent*

under

CASE NO.

RP1243/2008

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. O'Connell B.L.

Members: Mr. L. Tobin
Ms M. Maher

heard this appeal at Dublin on 7th April 2009

Representation:

Appellant(s) : In person

Respondent(s) : XXXX

The decision of the Tribunal was as follows:-

Appellant's Case:

The appellant stated that on October 3rd 2008 the respondent's principal shouted at him telling him he had two weeks notice. The following day, she apologised for her demeanour but did not rescind the notice period, he knew he was to be let go. On October 31st 2008 he was asked to attend a meeting with the respondent's principal, was handed a cheque for € 2, 373.72 and told it would sort him out for a few weeks. At no time did he say he was leaving.

Respondent's Case:

The respondent's principal stated that on October 3rd 2008 she had given the appellant notice of termination due to an alleged incident, which was not investigated. The following day she apologised to him for her tone of voice and told him the notice period was withdrawn, as she needed to get advice on the notice period he would be entitled to. On October 31st 2008 the appellant gave in and said he was leaving. She stated they were about to commence disciplinary procedures against the appellant but he left of his own violation before the procedure could commence. When asked, she stated that she could not fully explain how she had calculated the sum of money given to the appellant and stated that he should not have received it.

Determination:

The Tribunal noted a significant conflict in the evidence given by both parties. The Tribunal was shocked that the respondent failed to take any action following an alleged incident of gross misconduct on October 3rd 2008. The respondent claims that two weeks notice of dismissal was verbally given and rescinded. In any event the appellant received no written notice of a company grievance or disciplinary procedure.

The Tribunal is in no doubt that the respondent’s approach to the termination of the appellant’s employment amounted to unfair dismissal. However it is unable to award the appropriate remedy given that the appellant has applied for compensation under the Redundancy Payments Acts, 1967 to 2003 only.

In all the circumstances the Tribunal feels that in light of his eight years service, the Tribunal awards the appellant a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2003 based on the following criteria:

Date of Birth:	29 May 1984
Date of Commencement:	01 May 2000
Date of Termination:	31 October 2008
Gross Pay:	€ 324.00

Despite repeated questioning of the respondent as to why the sum of € 2,373.72 was paid, neither the respondent’s accountant nor principal was able to offer any explanation apart from an obscure reference to annual leave.

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

Sealed with the Seal of the
Employment Appeals Tribunal

This _____
(Sgd.) _____
(CHAIRMAN)