

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employee - **Appellant**

RP1104/2008

against

Employer
- **Respondent**

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. P. O'Leary B.L.

Members: Mr. D. Moore
Mr. G. Lamon

heard this appeal at Dublin on 19 March 2009

Representation:

Appellant:

Mr. Derek Oman, TEEU, 5 Cavendish Row, Dublin 1

Respondent:

Mr. Justin Lennon, J.J. Lennon Solicitors,
16 Pembroke Street Upper, Dublin 2

The determination of the Tribunal was as follows:

The appellant, an apprentice electrician, was taken on part way through his apprenticeship on 19 November 2005 and the employment was uneventful until 19 August 2008 when a director (AD) spoke to the appellant about the work situation. The appellant's position is that AD told him that there was no work left and gave him two weeks' notice of termination. The respondent's position is that on 19 August 2008 AD gave the appellant notice of a temporary lay-off commencing 1 September 2008.

On 28 August 2008, during a phone conversation with the appellant, the respondent's office secretary (OS) discussed more work for the appellant. The appellant's position is that he was offered one more day's work, for Monday 1 September 2008 at a time when he had already obtained work for the next two weeks from another employer prior to starting phase six of his apprenticeship in college. The respondent's position is that the appellant was offered continuing employment from 1 September in circumstances where the respondent had been awarded a new contract to fulfil. On 22 September 2008 OS issued a P45 to the appellant but this was not

received as it was sent to an address where the appellant no longer resided. Following a text message from the appellant on 10 October 2008 OS wrote to the appellant on 16 October 2008 with his P45 and stating that this was what the appellant had requested following his declining the offer of continued employment on 28 August 2008.

Determination:

Having considered the evidence of both sides in this matter the Tribunal prefers the evidence of the appellant and finds that a redundancy situation obtained at the end of August 2008. Accordingly the Tribunal finds that the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria

| | |
|----------------------|------------------|
| Date of Birth | 23 February 1985 |
| Employment commenced | 19 November 2005 |
| Employment ended | 29 August 2008 |
| Gross weekly pay | €642-33 |

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period. It should be noted that payments from the social insurance fund are limited to a maximum of €600-00 per week.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)