

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

Employee

against

Employer

under

CASE NO.

RP868/2008

- *appellant*

- *respondent*

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. P. O'Leary B L

Members: Mr. T. O'Sullivan
Mr J. Moore

heard this appeal at Dundalk on 12th February 2009

Representation:

Appellant(s) : Ms. Marie Hayes, Citizens Information Centre, 4 Adelphi Court, Long Walk,
Dundalk, Co Louth

Respondent(s) : In person

The decision of the Tribunal was as follows:-

Respondent's Case:

The owner of the company gave evidence. The respondent's contract on the site in Drogheda ceased to trade in May 2008. The appellant was offered an alternative position 30 minutes travel away in Castleblaney. Travel costs would be paid and he would be given an extra ½ hour each way for travelling. The witness stated that he was reluctant to lose the appellant. He received a letter from the appellant's representative dated May 16th 2008 stating the alternative position offered to their client was not suitable due to the distance required to travel daily.

On cross-examination when asked about two other employees situation he replied that he had offered them alternative employment but had made them redundant as one could not drive and the other was of retirement age. The appellant had originally hired as a driver. He could also drive a forklift and was trained to use the shredders and balers. He said that he all staff had contracts of employment but he could not locate the appellants.

Appellant's Case:

The appellant gave evidence. He said that he had received some training in how to use the shredders and balers. One of his colleagues that was made redundant drove the forklift. He explained that he could drive the forklift but had no certification. He had been working for the soft drinks company on the premises in Drogheda and applied to work for the respondent. He had no written contract of employment.

On May 15th 2008 he was notified that the plant in Drogheda was to close. An alternative position was offered in Castleblayney. He sought advice and his representative wrote to the respondent stating he felt that an alternative position was not suitable because of the distance he would have to travel. He explained to the Tribunal that in his previous employment of 20 years he had travelled extensively and wanted to remain working in Drogheda.

Determination:

The Tribunal determines that the alternative employment offered to the claimant was unsuitable in the circumstances. The Tribunal in coming to this decision took full account of the generous conditions that were attached to this position by the respondent. The distance between the locations was 38 miles making a total of 76 miles travelling each day. This would be a considerable imposition to place on the appellant and therefore the Tribunal finds the appellant is entitled to a statutory redundancy amount under the Redundancy Payments Acts, 1967 to 2003 based on the following:

Date of birth	2 October 1955
Date employment began	20 April 2004
Date employment ended	30 May 2008
Gross weekly pay	€ 440.00

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)