

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employee

RP245/2008

against

Employer

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. K.T. O'Mahony B.L.

Members: Mr. P. Casey  
Mr. J. McDonnell

heard this appeal at Cork on 4<sup>th</sup> September 2008 and 28<sup>th</sup> November 2008.

#### **Representation:**

Appellant: Edmond Smith, IWU, 55 North Main St, Cork

Respondent: Kieran McCarthy & Co., Solicitors, Floor 3B, 6 Lapps Quay, Cork  
XXXX

The decision of the Tribunal was as follows:

#### **Respondent's case:**

The joint shareholder (EF) gave evidence that that the company was small, that three people were laid off and the appellant was told that there was no work for about one week. She asked the appellant to come back, but was told that he was sick. She asked again, but the appellant looked for his P45, which they gave to MF on his behalf on 11 February 2008. The appellant didn't give the company a letter of resignation, but just told them that he wasn't coming back. The company is in liquidation since 31 March 2008. If the appellant had come back, the P45 would not have been issued, and he would have been entitled to redundancy after the company went into Liquidation. She never actually spoke to the appellant at this time, but to MF who was the translator for him. All the remaining staff were let go when the company went into liquidation.

The other joint shareholder (DF) gave evidence that the builder he was working for was not ready for them, so he had to lay off 3 lads including the appellant for about 5 days, but anticipated that they would be back. The other two did come back, but not the appellant, he just asked for his P45.

MF told him that he (the appellant) wasn't coming back. This became clear when MF asked for the P45 on the appellant's behalf. Presumably the appellant left because he got a job somewhere else. He said that he told the three men together that he had to lay them off for a week, and that there was no separate conversation with MF about C and the appellant, nor had he said that they "need to go". He was asked what was the point of the appellant leaving the job and then going on job seeker's benefit, he said he didn't know. He didn't ask the appellant for a medical certificate when he was out sick because he wouldn't really discipline workers if they were only out sick for a week or so.

**Appellant's case:**

An employee (MF) gave evidence that DF said to him in a car that C and the appellant needed to leave. He understood by this that there was no more work for him (the appellant), and that his employment was finished. A week later C returned, but the appellant didn't. The appellant didn't get his P45 or his redundancy money. He eventually got the P45 in March 2008. After he signed the letter stating that he had received the appellant's P45, he and C were let go. They were told on 12 March 2008 that there was no more work, and that the company was finished.

The appellant's representative said that he is now on job seekers benefit, and has not worked since. It would have been unusual for him, after working for three years, suddenly not to go back. The company should have asked for a letter of resignation from him.

**Determination:**

Based on the evidence adduced, the Tribunal finds that the appellant left of his own accord, and is not entitled to a redundancy payment.

Therefore, his appeal under the Redundancy Payments Acts, 1967 to 2003, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

