

## EMPLOYMENT APPEALS TRIBUNAL

Appeal Of:		Case No.
Employee	-appellant	RP295/2008
against		
Employer	-respondent	
under		

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. R. O' Flynn B.L.

Members: Mr. M. Forde  
Mr J. McDonnell

heard this appeal at Cork on 14th October 2008

#### **Representation:**

Appellant: In Person

Respondent: No appearance or representation.

#### **The decision of the Tribunal was as follows:**

The Tribunal is satisfied that the above-named respondent was properly notified of the hearing. Neither the respondent, nor a representative on his behalf, attended the hearing.

The appellant gave evidence that he commenced employment with the respondent in August 2000. Initially he worked six days per week but sometime later this was reduced to five and a half days.

Throughout his employment the appellant constantly experienced difficulty in getting the respondent to pay his wages. Some six or seven months prior to the end of his employment, the appellant was owed €8,000.00 from the respondent. The respondent paid the appellant €5,000.00 before Christmas 2007 but the remainder remained unpaid.

There was work available with the respondent after this time but the appellant felt that he had no option but to resign from his employment due to the constant difficulty he experienced in receiving his wages. The appellant informed the respondent that he could not "take it any longer" and that he was giving him one week's notice. The appellant's employment ended on the 7<sup>th</sup> March 2008. The respondent seemed content that the appellant was leaving and the appellant thought this might be because he was nearing his 66<sup>th</sup> birthday.

The appellant's colleagues continued to have work with the respondent but the appellant did not think that he was replaced.

**Determination:**

From the evidence adduced by the appellant, the Tribunal is satisfied that the appellant resigned from his employment upon the giving of one week's notice to his employer. The appellant also adduced evidence that work was available with the respondent in the period after his resignation.

The Tribunal is satisfied that there was no dismissal by reason of redundancy, but rather that the appellant terminated his employment by way of resignation. Accordingly, the Tribunal is satisfied, having heard the evidence, that the circumstances advanced and relied upon by the appellant, do not amount to, and do not constitute redundancy, within the meaning of the prevailing Redundancy Payments legislation.

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

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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