

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:		CASE NO.
Employee	–appellant A	RP729/2008
MN788/2008		
Employee	-appellant B	RP730/2008
MN789/2008		
against		
Employer	- respondent	
under		

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Sheedy

Members: Mr. D. Hegarty
 Mr. J. McDonnell

heard this appeal at Cork on 17th February 2009

Representation:

Appellants: Mr. Billy Curtin, OPATSI, Unit 2 Ard Alainn Business Park,
 Churchfield, Cork

Respondent: No appearance or representation by the respondent.

The decision of the Tribunal was as follows:

These appeals were heard simultaneously with RP762.08, RP646.08 and RP644.08.

The Tribunal was aware that the Secretariat received a telephone call from Mr. B of the company on the 16th February 2009. Mr. B informed the Secretariat that due to personal circumstances he would be unable to attend the hearing on the 17th February 2009. The firm of solicitors on file for the respondent were not in attendance at the hearing on behalf of the respondent. Upon telephoning the firm of solicitors it was confirmed that the firm would not be representing the respondent before the Tribunal in these matters. The Tribunal subsequently received facsimiles from the firm of solicitors confirming the firm was coming off record in relation to these matters. The Tribunal considered the matter on the 17th February 2009 and determined that the hearing should proceed.

Appellants' Case:

On the 3 March 2003 the appellants were working in Cork. At 3.30pm they were offered alternative work in Donegal. The appellants enquired about work on other sites but were told the other sites were fully staffed. The appellants were told that if they did not accept the work in Donegal, there was no further work for them.

Determination:

The Tribunal having heard the evidence of the appellants is satisfied that S.7 applies, which states, “an employee shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to-

(a) the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased or intends to cease, to carry on that business in the place where the employee was so employed, or

(b) the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed have ceased or diminished or are expected to cease or diminish.”

The Tribunal also notes that the appellants did not receive adequate notice of the alternative offered or confirmation of the new work.

The Tribunal finds that the appellants are entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2003, based on the following criteria:

Appellant A:

Date of Birth:	23 March 1939
Date of Commencement:	17 November 2003
Date of Termination:	3 March 2008
Gross Weekly Pay:	€985.80

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

The Tribunal also awards appellant A the sum of €1,971.60 being the equivalent of two weeks' gross pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

Appellant B:

Date of Birth:	19 December 1978
Date of Commencement:	17 November 2003
Date of Termination:	3 March 2008
Gross Weekly Pay:	€985.80

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

The Tribunal also awards appellant B the sum of €1,971.60 being the equivalent of two weeks' gross pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)