

**EMPLOYMENT APPEALS TRIBUNAL**

**APPEAL(S) OF:**

Employer

**CASE NO.**

PW5/2008

and

Employer

against the recommendation of the Rights Commissioner in the case of:

Employee

under

**PAYMENT OF WAGES ACT, 1991**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. E. Kearney B.L.

Members: Mr. J. Redmond  
Dr. A. Clune

heard this appeal at Galway on 18th February 2009

**Representation:**

Appellant(s): No appearance or representation

Respondent(s): Mr. Michael Kilcoyne, Branch Organiser, SIPTU, Galway No. 1 Branch,  
Forster Court, Galway

*(This case came before the Employment Appeals Tribunal by way of an appeal by the employer [hereinafter referred to as the appellant] against the decision of the rights commissioner; r-049132-pw-07 dated 6 November 2007)*

The decision of the Tribunal was as follows:-

**Background:**

The hearing of this case was scheduled to commence at 10.30am. The Tribunal waited until 10.45am before proceeding with the hearing.

The case was originally listed for hearing on 14 October 2008 at which time, only the appellant was present. The Tribunal decided that the case should be re-listed for a subsequent date provided the respondent confirmed that she wished to pursue the matter.

By way of telephone call on the 23 September 2008, the Tribunal was notified by the

appellant/person of her new address and a record of same was noted.

The respondent's representative confirmed to the Tribunal that the respondent wished the appeal be re-listed for hearing by letter dated 22 October 2008. A copy of this letter was sent to the appellant at the new addresses, for her information.

**Respondent's case:**

The respondent's representative contended that as the appellant was bringing this appeal against the rights commissioners decision, it was up to them to make their case. In the absence of the appellant to pursue their appeal, the Tribunal should uphold the decision of the rights commissioners.

**Determination:**

The Tribunal was satisfied that, based on the information supplied on the T1-B form (*Notice of Appeal*) and by telephone call from the appellant/person, the appellants were validly served with notice of the hearing. However, there was no appearance by them, or on their behalf. Accordingly, the Tribunal strikes out the appeal for want of prosecution and upholds the decision of the rights commissioners.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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