

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employee
- *appellant*

RP621/2008

against

Employer
- *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms R. O'Flynn

Members: Mr J. Hennessy
Mr J. McDonnell

heard this appeal at Cork on 9th February 2009

Representation:

Appellant: Mr Daniel Snihur, Independent Workers Union, 55 North Main Street, Cork

Respondent: No appearance or representation

The decision of the Tribunal was as follows:

The appellant gave evidence through an interpreter that he went to the Tax Office to get details of his employer's contribution to his taxes and was told that there was a P45 on his file. This was how he found out about his dismissal, not from his employer. He last worked for the respondent on 15 December 2007. He said that he went on his agreed holidays to Poland and came back to work on 6 January 2008. The respondent then told him that there was no work and to go back to Poland and wait for a call from him.

He said that he asked his friend to ring the respondent after 8 February 2008 to find out when work would be available, but the respondent told his friend not to ring him about the issue. The appellant said that he received a text message from the respondent on 28 January 2008 saying that there was still no work available. He said that he was working in Castlepark, Mallow for the week from 3 to 7

January 2008, and he denied failing to turn up for work on 10 January 2008.

After the respondent told him that there was no more work he applied for the job-seekers benefit. He was not aware at this time of the RP9 form that should be used to apply to an employer for redundancy. He said that three other men with less service than him were working on the site, and that was when he realised that the respondent did not want him to work there anymore. He has not worked since he left the respondent, although he has made efforts to get work.

Determination:

The Tribunal is satisfied that the respondent was duly notified of the claim and the date of the hearing, and that the secretariat made efforts to contact the respondent at two phone numbers – to no avail.

Having regard to the redundancy claim before the Tribunal and having heard the evidence of the appellant, the Tribunal is satisfied that there was a dismissal on 7 February 2008 (the date of termination recorded on the P45).

In accordance with section 10 (b) of Redundancy Payments Act 1971:

an employee who has been dismissed by his employer shall, unless the contrary is proved, be presumed to have been so dismissed by reason of redundancy;

The Tribunal must give effect to the presumption that said dismissal was by reason of redundancy.

Accordingly, the Tribunal finds that he is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on the following details:

Date of Birth	10 November 1965
Date employment commenced	11 November 2005
Date employment ended	7 February 2008
Gross weekly salary	€394.59

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)

