

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

1). Employee
RP1147/2008

CASE NO.

- *appellant*

MN1234/2008

and

Employee – appellant RP1205/2008

MN1313/2008

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 Flanagan BL

Members: Mr M Murphy
Ms K Warnock

heard this appeal at Drogheda on 21st April 2009

Representation:

Appellant(s): Ms Marie Hayes, Citizens Information Centre, 4 Adelphi Court, Long Walk,
Dundalk, Co. Louth

Respondent(s): Ms Ciara Maguire, Ahern & McDonnell, Solicitors, Roden Place, Dundalk,
Co. Louth

The decision of the Tribunal was as follows:-

Appellants' case:

In direct evidence, both appellants confirmed the details of their employment, as set out on their T1-A forms (*Notice of Appeal*). They received two week's pay in lieu of notice. They were never issued with payslips or P60 forms, except on one occasion, when one of the appellants got a P60 form for the purpose of his mortgage application. They received their pay each week into their hand but were unable to indicate if tax had been deducted from same. It was indicated that PRSI had been paid as the appellants are currently in receipt of social welfare benefit.

Respondent's Case:

The respondent confirmed that he did not contest the claims to redundancy and notice that were made by the appellants. However, he highlighted that he did not have money to pay the appellants'

entitlements to same and that he is currently in receipt of disability benefit.

Determination:

From the details supplied to the Tribunal, the Tribunal notes that the appellants' gross weekly pay appears to have been without the deductions of tax and appears to have been less than the agreed pay rates as specified in the Construction Registered Employment Agreement (REA) of the Joint Labour Committee.

Based on the evidence of the appellants, which was uncontested by the respondent, the Tribunal is satisfied that employment ended by reason of redundancy and accordingly finds that the appellants are entitled to a redundancy lump sum under the Redundancy Payments Acts 1967 to 2003, to be calculated based on the following criteria:

Appellant 1- (RP1147/2008)

Date of birth	24 th January 1978
Date employment commenced	24 th October 1994
Date of notice	17 th October 2008
Date employment ended	31 st October 2008
Gross weekly wage	€540.00

Appellant 2- (RP1205/2008)

Date of birth	13 th August 1965
Date employment commenced	24 th March 1997
Date of notice	17 th October 2008
Date employment ended	31 st October 2008
Gross weekly wage	€580.00

This award is made subject to the appellants having been in insurable employment under the Social Welfare Acts during the relevant period.

Based on their length of employment with the respondent, the appellants would have been entitled to six weeks notice or six weeks pay in lieu of notice. As both appellants only received two weeks notice of the termination of their employment, the Tribunal finds that the appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 succeeds and the appellants are awarded the balance of four weeks' notice; in relation to *appellant 1 – (MN1234/2008)* – in the amount of €2,160.00 and in relation to *appellant 2 – (MN1313/2008)* – in the amount of €2,320.00.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

