

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIMS OF:

5 Employees  
–**First Named Claimant**

CASE NO.

UD421/2009  
RP411/2008  
MN460/2008  
WT21/2008  
RP412/2008  
MN461/2008  
WT216/2008  
RP414/2008  
MN463/2008  
WT218/2008  
UD420/2009  
MN459/2008  
WT214/2008  
RP413/2008  
MN462/2008  
WT217/2008

against

Employer - **Respondent**

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007**  
**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**  
**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1967 TO 2001**  
**ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mrs. D. MacCarthy S.C.

Members: Mr. J. Browne  
Ms. K. Garvey

heard this appeal at Wexford on 14 January and 5 May 2009

**Representation:**

Claimants:

Mr. Padge Reck, Sunrise, Mulgannon, Wexford

Respondent:

No appearance by, or representation on behalf of, the respondent

The determination of the Tribunal was as follows:

**Determination:**

The Tribunal being satisfied that the notice of hearing had been served on the respondent, which is also known XXXX, at its registered office proceeded to hear the claims. Following a protracted period of late payment of wages, eviction of the respondent from its offices for non payment of rent and failure to provide professional indemnity insurance for the employees the claimants attended a hearing under the Payment of Wages Act, 1991 at the Rights Commissioner service on 1 May 2008. Whilst agreement was reached on a settlement of the issues at hand this agreement was not implemented by the respondent as a result of which on 15 May 2008 the claimants terminated the contracts under which they were employed by the respondent without notice in circumstances such that they were entitled so to terminate by reason of the employers conduct as provided under section 9(1)(c) of the Redundancy Payments Acts, 1967 to 2007 due to breach of contract by the respondent. Accordingly the Tribunal finds that all five claimants were dismissed by reason of redundancy. The fourth named claimant did not have two years service and accordingly is not entitled to a lump sum payment under the Redundancy Payments Acts. The other four claimants are entitled to lump sum payments under those Acts according to the following schedule.

Claimant	Date of Birth	Employment Began	Employment Ended	Gross Weekly Pay
1 <sup>st</sup> Named	18 April 1969	3 December 2004	15 May 2008	€961-53
2 <sup>nd</sup> Named	3 December 1956	15 July 1997	15 May 2008	€796-62
3 <sup>rd</sup> Named	31 May 1972	12 June 2000	15 May 2008	€887-12
5 <sup>th</sup> Named	27 October 1968	1 March 2005	15 May 2008	€758-80

Redundancy and unfair dismissal being mutually exclusive the claims of the first and fourth named claimants under the Unfair Dismissals Acts, 1977 to 2007 must fail. The Tribunal makes no order in regard to the claims under both the Minimum Notice and Terms of Employment Acts, 1967 to 2001 and the Organisation of Working Time Act, 1997

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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