

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employee
WT409/2008 - *appellant*

RP869/2008

against

Employer
- *respondent*

under

**ORGANISATION OF WORKING TIME ACT, 1997
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms M. McAveety

Members: Mr W. Power
Mr P. McAleer

heard this appeal at Cavan on 27th February 2009

Representation:

Appellant: Ms. Mary Murphy, Cavan Citizen Information Service, Townhall Street, Co. Cavan

Respondent: In person

The decision of the Tribunal was as follows:

Respondent's case:

The owner (SJ) gave evidence that she did not dispute the claimant's entitlement to redundancy, and had in fact tried to pay her this. The premises is now closed. She said that the claimant was paid €300 a week for 36 hours work as a shop assistant. She was also paid for the holidays that she took. The last day she worked was at the end of May when the business closed, but she had stayed on at her - SJ's - request. She denied that the claimant was a supervisor. She said that the claimant got payslips if she asked for them and she was also provided with P60's each year.

An employee (VK) gave evidence that he worked as a supervisor in the shop. He said that he was not given the title of supervisor, but was considered as such because it was a family business. He

denied that the claimant was a supervisor, and stated that she was paid for her holidays.

Claimant's case:

The claimant gave evidence that she was paid €340 a week into her hand, and was never given a payslip. Her role in the shop was to order products, check the till, delegate work to her colleagues and pay them from the till. She worked from 10am to 9pm each day and only got a break if the shop was quiet. She also worked some weekends. Her employer told her she wouldn't pay her holiday pay.

An employee (MM) gave evidence that she knew VK as someone who brought stock into the shop, and heard for the first time that he was a supervisor on the day of the hearing. She said that the claimant paid her and her colleagues from the till. No one told her that the claimant was a supervisor, she just assumed that she was.

Determination:

Based on the evidence adduced, the Tribunal finds that the appellant is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on the following details:

Date of Birth	24 May 1967
Date employment commenced	4 February 2006
Date employment ended	29 May 2008
Gross weekly salary	€300.00

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

The Tribunal also awards her €2,760.00 under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

