

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

Employee

- *appellant*

CASE NO.

RP1117/2008
MN1208/2008

against

3 Employers – *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): No appearance or representation

The decision of the Tribunal was as follows:-

Appellant's case:

The appellant confirmed that she commenced employment with the father of the first named respondent in 2003 in the bridal shop. The first named respondent took over the running of the shop in 2005.

The appellant worked until Saturday 5th July 2008 and then went on a week's holiday. She was due to return to work on Monday 14th July 2008. All of her wages were paid into her bank account and are up to date. She received her last week's wages on Friday 4th July and the wages for the week of holidays on Friday 11th July 2008.

On Wednesday 9th July 2008 while on her week's holidays, the appellant received a telephone call from the first named respondent informing her that she was dismissed because he had no more work for her. A week after her dismissal, the claimant received the sum of €1675.00 into her bank account. The appellant did not know what the sum constituted, despite requesting this detail from the first named respondent.

The appellant did not know if the shop was still trading or if she had been replaced in it. She believed that the father of the first named respondent was now running the shop and had heard that it was to be sold.

The appellant confirmed that she secured alternative employment in Dublin four months after her employment with the respondent was terminated.

Respondent's case:

The Tribunal noted that the T2 form (*Notice of Appearance*) of the first named respondent stated in part “(*the appellant*) was employed by me since 26/9/05. She was paid €1675.00 as a once off payment...The company could not afford to pay an accountant to work out the official redundancy, but after research, (*the appellant*) was more that fairly recompensed”. (*sic*)

Determination:

The Tribunal was satisfied that the respondent had been duly notified of the hearing. However, there was no appearance by them or on their behalf. In correspondence received in the Secretariat on 24th March 2009, the first named respondent stated in part that the second named respondent “ceased to trade in November 2008 and has no assets. As a result of this and other commitments, I will not be attending the tribunal on 21st April”. (*sic*)

On her application to the Tribunal, the appellant nominated three respondents, the second and third being named as limited liability companies. However, an extensive search was conducted on the online website of the Companies Registration Office (CRO) and details in relation to the existence of the second and third named respondents do not appear to exist. In the circumstances, the Tribunal is satisfied to make its order against the first named respondent.

Based on the uncontested evidence of the appellant, the Tribunal is satisfied that her employment ended by reason of redundancy and that she was in continuous employment since 2003.

Accordingly, the Tribunal finds that the claim under the Redundancy Payments Acts, 1967 to 2003 succeeds and the appellant is entitled to a redundancy lump sum, to be calculated based on the following criteria:

Date of birth	31 st August 1960
Date employment commenced	01 st January 2003
Date of notice	09 th July 2008
Date employment ended	09 th July 2008
Gross weekly wage	€370.00

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

Based on her length of her employment, the appellant would have been entitled to four weeks notice or four weeks pay in lieu of notice in the amount of €1480.00. However, the Tribunal findsthat the once-off payment of €1675.00, which the appellant acknowledged she received from thefirst named respondent, constituted payment to her in lieu of notice.

Accordingly, the appeal underthe Minimum Notice and Terms of Employment Acts, 1973 to 2001

is dismissed.

Furthermore, the Tribunal considers that the sum of €195.00 – the difference between €1675.00 and €1480.00 – constitutes part payment of the appellant's redundancy entitlement and should be considered when the redundancy lump sum is being calculated.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)