

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:

Employee

- appellant

CASE NO.

RP1091/2008

MN1175/2008

against

Employer

- respondent

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007  
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. E. Daly BL

Members: Mr. T.P. Flood  
Mr. F. Barry

heard this appeal in Dublin on 16 March 2009

Representation:

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Appellant(s) :

Mr. Charles Prizeman, T.E.E.U., 5 Cavendish Row, Dublin 1

Respondent(s) :

No legal representation

The decision of the Tribunal was as follows:-

The appellant was born in February 1985. On 10 March 2003 he started with the respondent as an apprentice electrician.

The appellant's representative told the Tribunal that the appellant was laid off after his apprenticeship ended on 16 May 2007 but that the appellant resumed work with the respondent some weeks later on 16 June 2007.

The respondent's case was that it, having lost a contract and having let people go, interviewed a few people before, in June 2007, giving the appellant work that he might not have succeeded in getting. The respondent's principal (hereafter referred to as GD) said that the respondent had been advised by a public body that it could act as it did without the appellant retaining continuity of

employment from the beginning of his apprenticeship.

The appellant's employment ended on 22 August 2008. He received two weeks' notice but sought a redundancy lump sum and a further two weeks' notice based on the contention that his service dated back to 10 March 2003.

It was claimed that the appellant's gross weekly pay was €876.49 (€776.49 per week plus €100.00 per week "for van"). At the Tribunal hearing the respondent neither disputed this figure nor proposed an alternative figure to the Tribunal.

**Determination:**

Section 5 (1) (b) (i) of Schedule 3 of the Redundancy Payments Act, 1967, provides:

"Where an employee's period of service had been interrupted by a period of not more than 26 weeks by reason of lay-off continuity of employment shall not be broken by such interruption whether or not notice of termination of the contract of employment has been given."

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

Date of birth: 18 February 1985  
Date of commencement: 10 March 2003  
Date of termination: 22 August 2008  
Gross weekly pay: €876.49

It should be noted that social insurance fund payments are subject to a statutory ceiling of €600.00 per week and that redundancy awards are conditional on the appellant having been in insurable employment under social welfare legislation.

Under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, the Tribunal awards the appellant the sum of €1752.98 (this amount being equivalent to two weeks' gross pay at €876.49 per week given that the respondent did pay two weeks' notice out of the appellant's four-week minimum notice entitlement applicable to his length of service).

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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