

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE - *appellant*

CASE NO.
RP536/2009

against
EMPLOYER - *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly BL

Members: Mr R. Murphy
Mr P. McAleer

heard this appeal at Monaghan on 23rd July 2009

Representation:

Appellant(s) : Ms Maria Connolly, Solicitor, Mullaghbrack, Smithboro,
Co.Monaghan

Respondent(s) : In Person

The decision of the Tribunal was as follows:-

Respondent's Case

The respondent gave direct sworn evidence that he is an electrical contractor. On 11 July 2008 he placed his three employees on temporary lay off as he did not have work available and he was waiting for work that had been promised to him. Two of his employees requested a letter stating that they were on temporary lay off as they required this letter to sign on at their local welfare office. He issued both of the employees with a letter confirming temporary lay off and re-employed them after two weeks when work became available.

The appellant requested his P45 from him as he was not satisfied with the lay off situation and asked him for redundancy. He told him that there was going to be work available within a few weeks. He gave him his P45 and has not replaced him since. He did not ask the appellant to return to work once he issued him with a P45.

Claimant's Case

The claimant gave direct sworn evidence that the respondent informed him that work was drying up and he could not afford to pay him. He informed him that he would have to lay him off and would contact him again if he had work available. He never mentioned a temporary lay off situation. The witness contacted the respondent on a number of occasions seeking work but no work was made available to him. He requested his P45 from the respondent as his local welfare office required it when he sought social welfare benefit. He requested a redundancy payment from the respondent and was told that he was not entitled to it.

In reply to questions from the Tribunal he confirmed that he contacted the respondent up to 10 times seeking work. The respondent told him on each occasion that he would get back to him but he never did. He confirmed that he told the respondent that he needed his P45 to enable him to claim social welfare benefit and did not request it to terminate his employment.

Determination

The Tribunal having heard the evidence from both parties are satisfied that a genuine redundancy situation existed and award the appellant a redundancy lump sum payment under the Redundancy Payments Acts 1967 to 2007 based on the following information:

Date of Birth:	8 May 1980
Date of commencement of employment:	4 January 2005
Date of termination of employment:	25 July 2008
Gross weekly pay:	€790.00

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

Please note that there is a weekly ceiling of €600.00 on all awards made from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

