

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
Employee

- *appellant*

CASE NO.  
RP334/2009  
MN330/2009

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 O. Brennan

Members: Mr E. Handley  
Mr P. Trehy

heard this appeal at Dublin on 4th September 2009

#### **Representation:**

Appellant: Mr. Blazej Nowak, Polish Consultancy Enterprise, 19 Talbot Street, Dublin 1

Respondent: XXXX

The decision of the Tribunal was as follows: -

#### **Appellant's Case**

The appellant was employed as a General Operative with the Respondent. On the 6<sup>th</sup> of October the appellant finished his current job and was informed that there was no further work available as yet. On the 3<sup>rd</sup> of December the respondent phoned the appellant and offered him one days work. The RP9 form was completed and the respondent replied by letter dated 8<sup>th</sup> of December indicating that the appellant had been offered work but had not responded. The letter also instructed the appellant that they would be in contact with him in the near future with a suitable position. The appellant wrote to the respondent informing him that he would be going home for Christmas and therefore unavailable to work for a period of three weeks, which included the Christmas holidays. The appellant requested his P45 for Social Welfare purposes. The appellant wrote to the respondent on the 26<sup>th</sup> of January requesting his redundancy, as he had not been offered any work within the statutory 4-week period.

#### **Respondent's Case**

The appellant did not work for the company after the 6<sup>th</sup> of October. The respondent offered the appellant work for one day on the 3<sup>rd</sup> of December with a view to having more available. The appellant requested his P45 from the respondent at the end of November. The respondent received a letter from the appellant stating he was unavailable for three weeks over Christmas therefore was unavailable for work in the context of the Redundancy Payments Act.

### **Determination**

Based on the evidence adduced the Tribunal award the appellant a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria:

Date of Birth:	9 <sup>th</sup> January 1983
Date of Commencement:	29 September 2005
Date of Termination:	6 <sup>th</sup> October 2008
Gross Pay:	€ 744.00

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

There is a weekly ceiling of €600 on all awards made from the Social Insurance Fund.

The appellant claimed his redundancy payment due to lay-off and is therefore deemed to have left his employment voluntarily. Therefore the appellant is not entitled to notice under the Minimum Notice and Terms Of Employment Acts, 1973 To 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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