

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

Employee

– *appellant*

CASE NO.

RP1054/2008

MN1247/2009

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. P. Clancy

Members: Mr. M. Forde
Mr. T. Kennelly

heard this appeal at Limerick on 26th June 2009

Representation:

Appellant(s): Ms. Angela Sciascia, Citizens Information, Weigh House, Market Yard,
Newcastle West, Co. Limerick

Respondent(s): Mr. Rob Cussen, Robert Cussen & Son, Solicitors, North Quay,
Newcastle West, Co. Limerick

The decision of the Tribunal was as follows:-

Introductory point:

At the commencement of this hearing, the only claim before the Employment Appeals Tribunal was under the Redundancy Payments Acts, 1967 to 2007. During the course of the hearing, an application was made to the Tribunal to amend these proceedings to include a claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005. The respondent representative consented to the proceedings being amended to include a claim under these Acts.

Appellant's case:

The details of the appellant's employment history, while employed by the respondent, were confirmed to the Tribunal. It was conceded that the appellant received two weeks notice of the termination of his employment from the respondent, thus a claim for a further two weeks pay in lieu of notice was being made under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Respondent's case:

It was confirmed that the respondent was not contesting the appellant's appeal under the Redundancy Payments Acts, 1967 to 2007. It was also accepted by the respondent that the appellant was entitled to a further two weeks notice under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Closing submission:

The respondent's representative accepted that the Decision of the Tribunal in relation to this case would issue in due course. The respondent had traded since 2001 but their current position was that though they were still in existence and were not insolvent or in liquidation, they were not trading due to the economic downturn. They are owed money but a sizable judgement has been made against them and other debts also exist. It was felt that the respondent would not be taking on any work again and consequently, they will not be generating any further income or incurring any further debts. There would be no money coming in for the foreseeable future. Accordingly, the respondent would have an inability to pay any award made by the Tribunal in this case.

Determination:

Accepting the uncontested evidence, the Tribunal finds that the appeal under the Redundancy Payments Acts, 1967 to 2007 succeeds and awards the appellant a redundancy lump sum, which is to be calculated on the basis of the following criteria:

Date of birth:	07 December 1957
Date of commencement:	10 May 2001
Date of notice:	18 July 2008
Date of termination:	01 August 2008
Gross weekly wage:	€450.00

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

The Tribunal accepts that the appellant was entitled to an additional two weeks notice on the termination of his employment and this was conceded by the respondent. The appellant's claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 therefore succeeds and the Tribunal awards the appellant €900.00, this being the equivalent of two week's pay.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)