

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

Employee

- *appellant*

RP955/2008

MN1028/2008

against

Employer – *respondent*

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Hayes BL

Members: Mr. D. Winston
Ms. C. Warnock

heard this appeal at Navan on 27 January 2009

Representation:

Appellant: In Person

Respondent: Ms. Katie Barbour, Keaveny Walsh & Company, Solicitors,
Headfort Place, Kells, Co. Meath

The decision of the Tribunal was as follows:-

Determination

The claimant commenced employment with the respondent in 1999. He left the respondent's employment in July 2003. He did not like his subsequent job and left it. The respondent agreed to take him back and the claimant recommenced in the respondent's employment on 18th August 2003.

He worked as a labourer. On occasions he also did security work. At the time that his employment ended he was performing security duties. He returned from holiday and was told that, for the following few weeks, there was only night security work available. This did not suit the claimant. The absence of day work was temporary and within three weeks of his leaving, the Tribunal was told, day work was again available.

The Tribunal is not satisfied that the claimant was dismissed, whether by way of redundancy or otherwise and the claimant has failed to discharge the onus of proof in this regard. Accordingly, the claim under the Redundancy Payments Acts, 1967 to 2007 fails.

The claim under the Minimum Notice and Terms of Employment Acts 1973 to 2005 also fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)