

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
Employee – appellant

CASE NO.
RP335/2009

against

Employer – respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mrs M Quinlan

Members: Mr C McHugh
Mr J Dorney

heard this appeal at Dublin on 30 July 2009

Representation:

Appellant(s): In person

Respondent(s): In person

The decision of the Tribunal was as follows:

The appellant was employed as an engineer by the respondent company from 31 October 2006 until 23 October 2008. The appellant contacted the Department of Enterprise, Trade and Employment (the Department) to arrange his redundancy payment and was directed to the online redundancy calculator. The calculator result stated that the appellant did not have the requisite 104 weeks service to claim a redundancy payment. However, on a calendar the appellant showed that his start and end dates amounted to 104 weeks. The appellant contacted the Department and explained his situation. The Department representative suggested that if the employer changed the finish date to the 28 October 2008 the calculator would recognise the service.

The appellant met his employer to explain the situation and asked him to change his finish date to the 28 October 2008. The employer agreed to change the date and the RP50 was duly filled in with a termination date of 28 October and submitted to the redundancy section of the Department. The Department requested that the employer pay the appellant his redundancy payment by 1st December 2008. The appellant contacted the Department when he did not receive his payment. Two months later the appellant received a letter from the Department stating that he was not entitled to a redundancy payment as he did not have 104 weeks service, and that he could appeal the decision to the Employment Appeals Tribunal.

Respondent's Case:

The respondent stated that the online redundancy calculator gave a result of nil entitlement to a redundancy payment in the case of the appellant and disputed the appellant's entitlement to a redundancy payment on that basis. The respondent agreed to amend the appellant's date of termination to the 28 October 2008 when the appellant requested it. The respondent paid the appellant for the full month of October 2008, as a goodwill gesture, plus pay in lieu of three days annual leave.

Determination:

The Tribunal having heard the evidence of both the appellant and the respondent in this case, none of which was contradicted by either party, is satisfied that the parties agreed that the termination date should be altered to 28 October 2008. In addition the respondent paid the appellant for the full month of October 2008 plus three days holiday pay. Accordingly, the Tribunal finds that the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Birth:	27 May 1983
Date of Commencement:	31 October 2006
Date of Termination:	28 October 2008
Gross Weekly Pay:	€865.00

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period. It should be noted that a statutory weekly ceiling of €600.00 applies to payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)