

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE – Appellant

CASE NO.
RP72/2009

against
2 EMPLOYERS – Respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. Gilvarry
Members: Mr. D. Morrison
Mr G. Hunter

heard this appeal at Letterkenny on 20th May 2009
and 23rd July 2009

Representation:

Appellant: Mr Gordan Curley, O'Gorman Cunningham & Co,
Solicitors, 16 Upper Main Street, Letterkenny, Co Donegal

Respondent: Mr. Pdraig O'Grady, on 20th May 2009, Mr. Loughlin Deegan on 23rd July,
Both Ibec, 11-12 Mill Court, The Diamond, Donegal Town, Co. Donegal

Background:

The redundancy situation is not in dispute in this case. The selection of the claimant for redundancy is also not in dispute.

The claimant in this case contends that he is due a redundancy payment based on a 39-hour week and not an 18.5-hour week. He opened an undated letter to the Tribunal, that was purportedly from the respondent, which outlined he would be due redundancy based on a 39-hour week. The respondent disputed the letter.

Determination:

The Redundancy Payments Acts, 1967 to 2007, provides formulae for the calculation of an employees pay and hours. Having heard the evidence adduced, the Tribunal determine that the employee worked a 17.5-hour week was paid for a 17.5-hour week and this was the situation for many years before and up until the redundancy occurred. The question of the authenticity of the letter is not one that has an affect on this determination; that is, whether the letter is authentic or not it does not alter the fact that the claimant's hours were the hours that the claimant actually worked. Accordingly, the claimant is entitled to be a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following information:

Date of birth: 22nd June 1967
Date of commencement: 26th June 1990
Date of notice: 13th October 2008
Date of termination: 08th December 2008
Gross weekly pay: € 190.05 (17.5 hours @ €10.86 per hour)

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

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)