

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
Employee

*(Appellant)*

CASE NO.  
RP260/2009  
MN1309/2009

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: Mr J Flanagan BL

Members: Mr D Winston  
Ms A Moore

heard this appeal at Dublin on 8<sup>th</sup> July 2009

### **Representation:**

Appellant: Mr John Swords, Operative Plasterers & Allied, Trades Society Of Ireland,  
72 Shantalla Road, Beaumont, Dublin 9

Respondent: XXXX

The decision of the Tribunal was as follows:

The respondent consented to an application by the appellant such that his claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 could also be dealt with at this hearing.

The appellant indicated that he had at first been put on short time. However the Tribunal accepts that the respondent had in fact put the appellant on lay-off. There was evidence that the respondent had issued at least part of an RP9 form to the appellant. The appellant did not recall receiving that form in its entirety and denied ever having sought a declaration of redundancy from the respondent using that form. Instead the appellant had submitted a T1-A form to the Tribunal claiming redress under the Redundancy Payments Acts. The respondent did not contest the claims for redundancy or minimum notice and the respondent did not submit a T2 form. The respondent did not dispute that the appellant was now entitled to be made redundant. The respondent was operating on a week-to-week basis and had not any work for the appellant nor had the respondent any plans to offer work to the appellant.

Accordingly, the Tribunal finds that the appellant was dismissed by reason of redundancy and the Tribunal awards a statutory lump sum to the appellant under the Redundancy Payments Acts, 1967

to 2007 calculated on the following basis:

Date of Birth: 30<sup>th</sup> April 1979  
Date of Commencement: 10<sup>th</sup> November 2000  
Date of Termination: 14<sup>th</sup> November 2008  
Gross Weekly Wage: €861.90

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

A statutory weekly ceiling of €600.00 applies to payments from the Social Insurance Fund.

The Tribunal finds that the appellant was neither given notice nor payment in lieu of notice in respect of the termination of his employment. The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 succeeds and the Tribunal awards €3447.60 as compensation for four weeks' notice.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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