

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

Employee

– *appellant*

CASE NO.

RP2/2009
MN9/2009
WT1/2009

against

Employer

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. O'Connor

Members: Ms. M. Sweeney
Mr. K. O'Connor

heard this appeal at Tralee on 30th April 2009

Representation:

Appellant(s): Mr. Con Casey, SIPTU, Connolly Hall, Upper Rock Street, Tralee, Co Kerry

Respondent(s): No appearance or representation

The decision of the Tribunal was as follows:-

Introductory note:

The Tribunal was satisfied that notice of hearing had been duly served on the respondent, as named on the appellant's T1-A form (*Notice of Appeal*). However, there was no appearance by them on the scheduled day of hearing, or representation on their behalf. During the hearing of this case, it emerged that the respondent could be in liquidation. Following the hearing of the case and on the instructions of the Tribunal, the liquidator was contacted by letters dated 6 May 2009 and 21 May 2009 respectively, and informed about the existence of this appeal. They were requested to confirm their involvement – if any – in the matter. If involved, they were further requested to confirm the legal status of the respondent and outline their view in relation to the appeal.

Appellant's case:

In his sworn evidence, the appellant confirmed his employment details from when he was employed by the respondent, and as set out on his T1-A form.

The appellant's representative, on behalf of his member, formally withdrew the claim under the

Organisation of Working Time Act, 1997.

Respondent's case:

By letter dated 14 May 2009, the liquidator confirmed their appointment as liquidators to the respondent and the legal status of the respondent. By letter dated 18 June 2009, the liquidator confirmed that they were not contesting the appeal.

Determination:

In noting the correspondence received from the liquidator and accepting the uncontested evidence of the appellant, 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:	06 July 1956
Date of commencement:	10 April 2004
Date of notice:	01 August 2008
Date of termination:	01 August 2008
Gross weekly wage:	€550.00

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

The Tribunal also finds that the appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 succeeds and awards the appellant the sum €900.00 in lieu of notice, this being the equivalent to two week's gross pay.

The Tribunal notes that the claim under the Organisation of Working Time Act, 1997 was formally withdrawn.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)