

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE – appellant

CASE NO.
RP202/2009
MN217/2009

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 P. Hurley

Members: Mr. J. Redmond
Dr. A. Clune

heard this appeal at Loughrea on 27th May 2009

Representation:

Appellant(s) : Diane Jackson, SIPTU, No 3 Branch, Forster Court, Galway

Respondent(s) : Mr Conor O'Boyle, O'Boyle & Associates, Insolvency Practitioners, Mayoralty House, Flood Street, Galway

The decision of the Tribunal was as follows:-

The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 was dismissed.

Appellant's Case:

The appellant was employed by the respondent as an auctioneer of animals at their mart. He commenced on January 1985 and worked every Saturday in high season and twice a month in low season being paid a fixed amount no matter how sales were. Yearly he received a statement of his earnings from the respondent and his accountant took care of his own taxation requirements. There was no contract of employment but he was supplied with a coat and any equipment he required for the carry out the job for the respondent.

When he was unable to work he informed the Manager who got another auctioneer. He was also employed at another mart as an auctioneer and treated as an employee having his leave and pension contributions paid. He also received a P60. In December 2007 the Manager informed him that the mart was closing due to lack of business.

When asked he said that he had sent his details to the Department of Social and Family Affairs.

Determination:

Having heard the submissions made by both parties in this case the Tribunal finds that on the balance of probabilities the appellant was employee of the respondent company.

The Tribunal determines that the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on his continuous service and the following information:

Date of Birth:	15 October 1953
Date of Commencement:	01 January 1985
Date of Termination:	15 December 2007
Gross weekly pay:	€ 180.00

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)