

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:  
EMPLOYEE - appellant

CASE NO.  
RP651/2009

against

EMPLOYER - respondent

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr P Hurley

Members: Mr J Redmond  
Mr T Kennelly

heard this appeal at Loughrea on 13th October 2009

Representation:

\_\_\_\_\_

Appellant(s): Mr David Fahy,  
F.G. MacCarthy Solicitors, Loughrea, Co Galway

Respondent(s): No representation listed

The decision of the Tribunal was as follows:

Appellant's Case:

The appellant gave evidence that he commenced his employment with the respondent in 1997, however the Revenue Commissioner's had no record of his employment until May 1999. The appellant's employment ended on the 29<sup>th</sup> February 2008, but the appellant did not submit his claimform to Tribunal until March 2009. The appellant stated that this was because the respondent, a builder, had not completed building the appellant's house when the appellant's employment ceased and that there were differences between them.

The appellant contended that the respondent could not afford to keep him on and had not paid him for two weeks in February 2008. The respondent had three jobs towards the end of the appellant's employment, two houses, including the appellant's and a pub in Feakle, which was part owned by the respondent. Other employees had left previously and at the end of the employment there were three employees, including the appellant. The appellant contended that he asked the respondent if there was more work available and he was told there wasn't. The appellant disputed that he had left

or that he had work lined up elsewhere.

Respondent's Case:

The respondent contended that he had a further job in Limerick for the appellant to do but that the appellant had left as he found work elsewhere. The respondent subcontracted the fit-out job in Limerick to someone else.

The respondent was unaware that he was obliged to provide a written contract of employment or payslips. The respondent had no record of when the appellant began his employment. The respondent did not recall the appellant not being paid in February and disputed that he told the appellant that there was no more work. He contended that the appellant was working and that he had not been asked by the appellant if there was further work.

Determination:

The Tribunal has considered the time limit for receipt of appeals under Section 24 of the Redundancy Payments Act 1967, as amended by section 12 of the Redundancy Payments Act 1971 and section 13 of the Redundancy Payments Act 1979, and has decided to allow the appellant to present his case.

The Tribunal is satisfied that a redundancy situation existed and that the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following information:

Date of Birth:	3 <sup>rd</sup> April 1981
Date of Commencement:	10 <sup>th</sup> May 1999
Date of Termination:	29 <sup>th</sup> February 2008
Gross Weekly Pay:	€550.00

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)