

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE – *appellant*

CASE NO.
RP1344/2008

against

EMPLOYER - *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. O’Leary B.L.

Members: Mr. Michael J. Murphy
Mr. Bernard McKenna

heard this appeal at Navan on 28th May 2009
14th October 2009

Representation:

Appellant: Deborah Dwyer, Citizens Information Centre, 1 Brews Hill, Navan,
Co. Meath

Respondent: In person at first hearing, no appearance or representation on behalf of
at second hearing date

The decision of the Tribunal was as follows: -

Respondent’s Case

On the 10th of October the respondent informed all his employees that work was slow and there would only be three weeks work left on the current site. The respondent informed all his employees they would be on temporary lay-off but would be taken back on if work became available. The appellant was let go on the 21st of October. Since putting the appellant on lay-off the respondent has not had enough work to offer the appellant thirteen weeks of full-time employment. The appellant requested his P45 in order to claim Social Welfare.

Appellant’s Case

The appellant was aware that work was slowing up; all the respondents’ employees got verbal notice that work was quiet. On the 21st of October the respondent informed the appellant that he was being let go because there was no further work available, short-time or lay-off was never mentioned to the appellant. There was no further work offered to the appellant.

The first hearing was adjourned in order for the appellant to serve the RP9 form on the respondent. In order to serve the RP9 the appellant called to the respondent's premises but he was not present and the form was not accepted on his behalf. The appellant sent the RP9 form by registered post twice with the response 'gone away' and 'not called for.'

Determination

The claimant has made every effort to serve the RP9 on the respondent. The respondent has failed, neglected and refused to accept delivery of the RP9, which he knew or ought to have known was being served on him by the appellant arising out of the hearing on the 28th of May 2009.

The Tribunal is in no doubt that the respondent, by his actions has terminated the employment of the appellant and on the respondent's own evidence this termination was a result of a redundancy situation. The Tribunal therefore determine that the appellant is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria:

Date of birth	2 nd August 1983
Date employment commenced	4 th January 2000
Date employment ceased	21 st October 2008
Gross weekly pay	€607.48

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period. Please note that a statutory weekly ceiling of €600 applies to all payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)