

## EMPLOYMENT APPEALS TRIBUNAL

**APPEAL(S) OF:**  
EMPLOYER

**CASE NO.**  
PW149/2009

against the recommendation of the Rights Commissioner in the case of:  
EMPLOYEE

under

### **PAYMENT OF WAGES ACT, 1991**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr M. Gilvarry

Members: Mr. B. O'Carroll  
Mr M. McGarry

heard this appeal at Castlebar on 20th November 2009

#### **Representation:**

Appellant(s) : In Person

Respondent(s) : Mr. Pat Flannery, Assistant Branch Organiser, SIPTU,  
Galway No 2 Branch, Forster Court, Galway

**This case came before the Tribunal by way of an appeal by the employer against the decision made by a Rights Commissioner reference number: r-073081-pw-08/SR.**

The decision of the Tribunal was as follows:-

#### **Appellant's Case:**

The owner of the appellant company gave evidence. He stated that he sent a copy of the notice of appeal to the respondent (employee) at the last known address he had for him but could not prove delivery of it.

#### **Respondent's Case:**

The respondent's representative stated his client was still residing at the same address and under sworn evidence the respondent stated she had not received the notice of appeal.

**Determination:**

The Tribunal cannot hear the appeal, as it has no option but to decline jurisdiction. Section 7(2) of the Payment of Wages Act, 1991, provides:

“An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the date on which the decision to which it relates was communicated to him-

(a) a notice in writing to the Tribunal containing such particulars (if any) as may be specified in regulations under subsection (3) and stating the intention of the party concerned to appeal against the decision, and

(b) a copy of the notice to the other party concerned.”

The Tribunal is not satisfied that s.7 (2) (b) above has been complied with and therefore has no alternative but to find that it does not have jurisdiction to hear the appeal under the Payment of Wages Act, 1991, against Rights Commissioner recommendation r-073081-pw-08/SR.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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