

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE - *appellant*

RP113/2009

against

EMPLOYER - *respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. P. Quinn BL

Members: Mr. J. Redmond  
Ms H. Henry

heard this appeal at Loughrea on 31st August 2009

Representation:

\_\_\_\_\_

Appellant(s) No appearance by or on behalf of appellant

Respondent(s) : L. O' Connor & Co, Solicitors, 196 Upper Salthill, Galway

The decision of the Tribunal was as follows:-

#### **Determination**

Immediately before the commencement of his hearing, the Tribunal learned from the Appellant that he was not in a position to attend at the scheduled hearing due to a bereavement.

The Respondent was in attendance at the hearing accompanied by his legal representative. It was outlined to the Respondent and his representative, that in the circumstances pertaining, the Tribunal was disposed to adjourn the hearing of this matter to another date, to allow for the Appellant to be in attendance.

To circumvent such an inconvenience for the Respondent and his legal representative and possible further expense to the Respondent, the Tribunal advised the Respondent that the only circumstances by which such could be avoided for him, would be if he was in agreement with the matters as set out by the Claimant in his Form T1-A and would be prepared to adduce sworn testimony before the Tribunal to that effect.

An opportunity was thereupon provided to the Respondent's representative by the Tribunal, to take instructions on the matter and to ascertain, as to whether the Respondent was content to proceed on that basis, thereby avoiding the necessity of the scheduling of a further hearing by a division of the Tribunal in respect of this matter and in respect of which, the Respondent and his legal representative, might again have to be in attendance.

Having taken instructions on the matter, it was then communicated to the Tribunal by the Respondent's representative, that the Respondent was content to allow the matter to be disposed of on the occasion in question, on the basis as outlined and that he accepted the contents of the Appellant's Form T1-A in its material respects.

Thereupon the Respondent gave sworn testimony to the Tribunal that

- (i) The Appellant was born on the 25th October 1960.
- (ii) The Appellant commenced employment as a builder's labourer with the Respondent on the 6th January 1991 and continued his employment with the Respondent until such was terminated by the Respondent on the 26th May 2008.
- (iii) The Claimant's gross weekly wage with the Respondent as at the date of termination of his employment was €620.
- (iv) As at the date of termination of the Appellant's employment, the requirements of the Respondent's business for the Appellant to carry out work of the particular kind for which he was employed had ceased and the Respondent had to henceforth carry on his business without the Appellant, who was not replaced by the Respondent.

By reason of the foregoing, the Tribunal is satisfied and unanimously determines that a redundancy situation existed for the Appellant and accordingly, his claim under the Redundancy Payments Acts 1967 to 2007 succeeds and the Tribunal awards the Appellant his statutory entitlement to redundancy thereunder, based on the criteria as set out above.

This award is made subject to the Appellant having been in insurable employment under the Social Welfare Acts during the relevant period and it is to be further noted that there is a gross weekly ceiling of €600 on all awards made from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

