

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE (Appellant)

CASE NO.
RP118/2009

against
EMPLOYER (Respondent)

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. S. Ó Riordáin B.L.
Members: Mr. J. Hennessy
Mr. J. Dorney

heard this appeal at Kilkenny on 6th October 2009

Representation:

Appellant: Mr Patrick Kavanagh, TEEU, 83 Lower Yellow Road, Waterford

Respondent: In Person

The decision of the Tribunal was as follows:

Respondent's Case:

The appellant was delayed in completing his apprenticeship as he failed two of the examinations. FAS notified the respondent in August 2008 that the appellant had completed his apprenticeship. The respondent telephoned FAS after receiving the letter and it was confirmed to him that the appellant's apprenticeship was completed in August 2008.

The respondent terminated the appellant's employment on the 22nd August 2008. It was the respondent's case that as he had terminated the appellant's employment within four weeks of the end of the appellant's apprenticeship, the appellant was not entitled to a redundancy payment under the legislation. The respondent was unable to produce the letter he received from FAS in August 2008. The respondent stated that until August 2008 he was unaware that the appellant had completed his apprenticeship. As soon as he became aware of the completion of the appellant's apprenticeship he terminated the contract.

Appellant's Case:

A letter dated the 9th April 2008 from FAS was submitted to the Tribunal. This letter was addressed to the appellant and stated that he had passed the necessary assessments for Phase 7 of his apprenticeship, which was the last phase. Both the employee and employer receive a letter from FAS as each phase of the apprenticeship is completed. The appellant gave evidence that he had also provided the respondent with a copy of the letter.

The appellant's representative wrote to FAS and received a response dated the 15th September 2009. The letter detailed that the appellant commenced his apprenticeship on the 29th September 2003 and had served the required minimum of 4 years and completed all seven phases of his apprenticeship on the 10th April 2008. His FETAC Advanced Craft Certificate was issued on the 2nd May 2008.

Determination:

The Tribunal carefully considered both the verbal and documentary evidence adduced. The Tribunal is satisfied that the appellant completed his apprenticeship in April 2008. The appellant gave evidence that he provided the respondent with a copy of the letter from FAS at that time. As the appellant's contract was not terminated until August 2008 (the respondent's evidence was that this was the first time he became aware the appellant had completed his apprenticeship) the Tribunal finds that the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Birth: 22nd August 1984
Date of Commencement: 29th September 2003
Date of Termination: 22nd August 2008
Gross Weekly Pay: €780.00

It should be noted that payments from the social insurance fund are limited to a maximum of €600.00 per week.

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)