

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

PW30/2009

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

- *employee*

-v-

- *employer*

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. Clancy
Members: Mr G. Phelan
 Mr. T. Kennelly

heard this appeal at Limerick on 5th November 2009

Representation:

Appellant: XXXXXX

Respondent: No appearance or representation

The decision of the Tribunal was as follows:

This case is before the Tribunal by way of an employee appealing a Decision of a Rights Commissioner, Reference: PW63917/08/MR, under the Payment Of Wages Act, 1991.

Appellant's case:

The Tribunal heard the uncontested evidence of the appellant. The appellant told the Tribunal that he did not pursue the monies that his employer owed him within the six month period as the advice he received from a government advice line advised him to get his form p45 first and then pursue monies that were owed to him. The Tribunal asked the appellant if NERA advised him that he could not put in a claim until he got his form p45 and he replied, "well they just said that the most important thing was p45".

Determination:

The Tribunal have considered all the evidence adduced relating to exceptional circumstances: the timing of the form p45, the expiry time to meet the appeal and the actual time of the filing of the appeal to the Rights Commissioner. The appellant finished working for his employer on 27th or 31st July 2007, and his claim was lodged to the Rights Commissioner on 23rd April 2008. The appellant received his p45 before the six-month period had expired and yet he did not lodge his appeal in time. The appellant did not send the appeal to the Rights Commissioner within the six-month period. The appellant did not satisfy the Tribunal that exceptional circumstances prevented him lodging an appeal within the six-month period as stipulated in the Payment Of Wages Act, 1991. Accordingly, the Tribunal determine to uphold the Decision of the Rights Commissioner ref: PW63917/08/MR, in that the appeal under the Payment Of Wages Act, 1991, is out of time.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)