

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
EMPLOYEE                    *-appellant*

CASE NO.  
RP295/2009

against

EMPLOYER                    *-respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)  
Chairman: Mr P. Hurley  
Members: Mr G. Phelan  
                  Mr. T. Kennelly

heard this appeal at Limerick on 6th November 2009

#### Representation

Appellant: Mr Robert Lee, Lees, Solicitors,  
Lord Edward Street, Kilmallock, Co Limerick

Respondent: Ms Caroline Keane Solicitor, Sweeney  
McGann Solicitors, 67 O'Connell Street Limerick

#### **Determination:**

The appellant ceased working with the respondent on 10<sup>th</sup> April 2006. On 28<sup>th</sup> August 2006 the appellant originally submitted an appeal to the Tribunal under the Unfair Dismissals Acts, 1977 to 2007, ref: UD 903/2006. The appeal failed:

“Having heard all the evidence the Tribunal is of the view that although the dispute between the parties centred around a proposed redundancy situation and the selection process the question of unfair selection is central and as there was no claim put forward by the claimant for redundancy and minimum notice the Tribunal’s sole function is to determine or not if there was unfair selection for redundancy. Having heard all the evidence the Tribunal cannot support the proposition that there was an unfair selection. The claim under the Unfair Dismissals Acts, 1977 to 2001 fails.”

Subsequent to that Determination the appellant submitted an appeal to the Tribunal under the Redundancy Payments Acts, 1967 to 2007, on 02<sup>nd</sup> February 2009.

“Amendment of section 24 of Principal Act.	<b>13.</b> —Section 24 of the Principal Act (as amended by the Act of 1971), which relatesto a time-limit on claims for redundancy payment, is amended by the insertion of the following subsection after subsection (2A):
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“(3) Notwithstanding subsection (2A), where an employee establishes to the satisfaction of the Tribunal—

(a) that failure to make a claim for a lump sum before the end of the period of 104 weeks mentioned in that subsection was caused by his ignorance of the identity of his employer or employers or by his ignorance of a change of employer involving his dismissal and engagement under a contract with another employer, and

(b) that such ignorance arose out of or was contributed to by a breach of a statutory duty to give the employee either notice of his proposed dismissal or a redundancy certificate,

the period of 104 weeks shall commence from such date as the Tribunal at its discretion considers reasonable having regard to all the circumstances.”.

The Tribunal have considered the evidence very carefully and considered the arguments of both representatives.

The Tribunal determine that the appeal under the Redundancy Payments Acts, 1967 to 2007, was not brought within the time limits as specified above. The Tribunal is unable to find a legally compelling argument to extend the time limit. Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2007, is not within the jurisdiction of the Tribunal.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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