

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE – appellant

CASE NO.
RP532/2009

against
EMPLOYER – respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P McGrath BL

Members: Mr F Cunneen
Mr J Dorney

heard this appeal at Dublin on 16th November 2009 and 3rd December 2009

Representation:

Appellant(s): In person

Respondent(s): Mr Stephen Sands
CIF, Construction House, Canal Road, Dublin 6

The decision of the Tribunal was as follows:

Appellant's Case:

The appellant gave evidence that he commenced his employment on September 7th 2004 as an apprentice electrician. He employment was terminated on September 8th 2008, however, his certificate states that he qualified on September 20th 2008. The appellant contends that, as he was dismissed twelve days prior to the completion date of his apprenticeship, he is entitled to a redundancy payment.

Respondent's Case:

A Director of the respondent company gave evidence that the appellant was employed as a first year apprentice electrician on September 7th 2004, and that Fás, the Training and Employment Authority, was notified accordingly. The appellant passed all his required phases within the minimum four-year apprenticeship period. In the summer of 2008 the company could not afford to keep all employees working, and so, put the fourth year apprentices on lay-off so that they could still attain their four years minimum service.

The Director explained that the respondent company understood that the applicant had completed

his apprenticeship on the fourth anniversary of his commencement date. The appellant was notified that September 8th 2008 would be his date of termination.

The Tribunal instructed that a Fás employee be subpoenaed in order to clarify the start and finish dates on an apprenticeship.

On the second day of hearing a Fás employee gave evidence that the commencement date of an apprenticeship is the date that the apprenticeship is registered on the Fás computer system. As the appellant's apprenticeship was registered on September 20th 2004, that was his commencement date. The employer is obliged to register the apprenticeship within two weeks of recruiting the apprentice, but the commencement date is the date registered with Fás. To qualify, an apprentice must pass all phases and serve for a minimum of four years. If the apprentice has passed all phases within the four years, the qualification date is on the fourth anniversary of the registration, which in this case was September 20th 2008.

Determination:

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 information:

Date of Birth:	24 th June 1986
Date of Commencement:	7 th September 2004
Date of Termination:	8 th September 2008
Gross Weekly Pay:	€650.00

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

It should be noted that a statutory ceiling of €600.00 applies to payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)