

## EMPLOYMENT APPEALS TRIBUNAL

Claims of:  
Employee

CASE NO.  
MN618/2009  
WT265/2009

against  
Employer

under

### MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr. P. Pierce  
Mr. G. Whyte

heard this claim at Dublin on 2nd February 2010

#### **Representation:**

Claimant: In Person

Respondent: Mr Alan Kirwan, Kirwan McKeon & James, Solicitors, 22  
Kildare Street, Dublin 2

#### **The decision of the Tribunal was as follows:**

##### Respondent's Case:

It was submitted by the respondent's representative that the claimant incorrectly named the employer on the form T1A. The claimant's payslips also incorrectly named the respondent as his employer when in fact his employer was a wholly owned subsidiary of the respondent. The respondent engaged a finance company to operate payroll for a number of companies under the "umbrella" of the respondent. The claimant would have known the identity of his employer from wage cheques, which issued to him. However, the claimant informed the Tribunal that he was paid by bank transfer and not by cheque. The respondent conceded that the claimant was correct.

The respondent supported its case by stating that the tax reference numbers on the claimant's payslips would correspond to the other company, which was the claimant's employer. However, the respondent was unable provide the tax reference numbers to support this argument. It was confirmed to the Tribunal that there was a common director and shareholder to both companies.

Claimant's Case:

The claimant stated that he returned from two weeks annual leave for which he received only part payment. The day after he returned from holidays the business closed. He did not receive the balance owed to him for holiday pay outstanding or his entitlement to minimum notice. Throughout his employment the claimant believed that the respondent was his employer and he met a director of the respondent on several occasions when she attended at his workplace. The claimant submitted his payslips to the Tribunal, which named the respondent as his employer.

**Determination:**

The Tribunal is satisfied from the evidence adduced that the claimant correctly named the respondent as his employer on the form T1A. The Tribunal is satisfied that the claimant is entitled to €456.00 under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, being the equivalent of one week's gross wage.

The claimant gave evidence that he received 16 hours worth of holiday pay. The Tribunal finds that the claimant is entitled to €720.00 (being the equivalent of 60 hours pay) under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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