

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

Employee

CASE NO.

RP360/200
UD359/2009

MN363/2009
WT159/2009

against
Employer
Employer
Employer
Employer
Employer

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K. T. O'Mahony B.L.

Members: Mr G. Phelan
Dr. A. Clune

heard this claim at Ennis on 2nd July 2009
and 17th December 2009

Representation:

Claimant(s) : Ms Gerardine Costello, Gerardine Costello & Associates, Solicitors,
4a Oranmore Business Park, Oranmore, Co Galway

Respondent(s) : Not Present or Represented

The determination of the Tribunal was as follows:-

Background:

At the outset the claims under the Unfair Dismissals Acts, 1977 to 2007 and the Organisation of

Working Time Act, 1997 were withdrawn.

The claim was taken against 2 individuals (SK and PK) who are the first named and second named respondents as well as against 3 limited companies. In 2001 PK and SK were looking for workers. The appellant successfully applied for the job and commenced work in a quarry where his employer had a contract. Over the following years and up to the time his employment was terminated in 2008 he worked as a grounds man on various sites.

During his employment the appellant was paid in cash, by personal cheques drawn on the joint account of PK and SK and company cheques. Revenue tax credit certificates for the appellant dated December 14th 2001 and January 16th 2004 show his employer as the third named respondent. Both PK and SK were two of the directors of the third named respondent. This company was dissolved in December 2003. The fourth named respondent was dissolved in June 2005. The aforementioned P60 and Tax Credit Certificates bear the same employer number. The documentation submitted to the Tribunal further shows that in early 2005 the appellant was paid by personal cheques drawn on the joint account of PK and SK (the first named and second named respondents). Documentation further shows that from at least as early as November 2005 the appellant was being paid by cheques drawn on the account of the fifth named respondent. Both PK and SK are the directors of the fifth named respondent.

On October 10th 2008 the appellant was informed by his foreman that there was little work for him. He was let go on October 12th 2008. During the term of the claimant's employment, and that of his colleagues, he carried out the same duties and was supervised by the same foreman.

Determination:

None of the respondents attended at the hearing of this case. On the limited evidence before it the Tribunal is satisfied that the claimant had continuity of employment from 1 February 2001. Through a series of transfers of undertakings he worked for different employers until he finally became employed, sometime in 2005, by the fifth named respondent. The fifth named respondent made him redundant on October 12th 2008. The Tribunal is satisfied that a redundancy situation existed. The appeal under the Redundancy Payments Acts, 1967 to 2007 succeeds and the Tribunal awards the appellant a redundancy lump sum, which is to be calculated on the basis of the following criteria:

Date of Birth:	25 August 1971
Date of Commencement:	01 February 2001
Date of Termination:	10 October 2008
Gross Pay:	€ 947.79

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 payments from the social insurance fund are limited to a maximum of € 600.00 per week.

Loss having been established the Tribunal awards the sum of € 3,791.16, this being four weeks gross pay, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

As the claimant was employed by the fifth named respondent at the time his employment was terminated, these awards are made against that respondent. The claims against the first, second third, and fourth named respondent are dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)