

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

EMPLOYEE

CASE NO.

MN1057/2009

RP1183/2009

against

EMPLOYER

- *respondent*

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. P. O'Leary B L

Members: Mr P. Pierson
Mr O. Nulty

heard this appeal at Monaghan on 16th February 2010

Representation:

Appellant: Ms Mary Brady, Wright Solicitors, Mill Street, Monaghan

Respondent: Not present or represented

The decision of the Tribunal was as follows:-

The Tribunal considered the time limit for receipt of appeals under Section 24 of the Redundancy Payments Act 1967 as amended by section 12 of the Redundancy Payments Act 1971 and section 13 of the Redundancy Payments Act 1979 and has decided to allow the appellant to present his case.

Claimant's Case

During direct evidence the claimant told the Tribunal that he commenced work with the respondent on 10th January 2004. The employer was a family friend. The claimant's job involved driving an oil tanker and he was also responsible for feeding, cleaning and clipping cattle. His hours of work were approximately 8am – 7pm. At the time of commencement he was in receipt of €350 wages per week and at the time of dismissal he was receiving €420 per week.

During his employment the claimant took one weeks holiday at his own expense. He did not receive any holiday pay.

In March 2008 the claimant met the respondent on the road and was told that there was no more work for him. He did not receive his minimum notice or payment for same.

Determination:

The Tribunal is satisfied that the respondent was duly notified of the hearing. Based on the uncontested evidence of the appellant the Tribunal finds that he is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2003 based on the following criteria:

Date of birth	21 st July 1976
Date employment commenced	10 th January 2004
Date employment ceased	24 th March 2008
Gross weekly pay	€420

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 weekly ceiling of €600 applies to payments from the Social Insurance Fund.

The claimant is awarded 4 weeks minimum notice, €1680, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

The Tribunal also finds that the appellant is entitled to all statutory Holiday entitlements and therefore awards the appellant the sum of €2940, being the equivalent of 35 days pay under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

