

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE

RP1298/2009

against  
EMPLOYER

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J. O'Connor

Members: Mr. A. O'Mara  
Mr F. Barry

heard this appeal at Tralee on 11th February 2010

Representation:

\_\_\_\_\_

Appellant:

The Appellant in person

Respondent:

Sheehan Ryan & Company, Solicitors, 61/62 New Street, Killarney, Co Kerry

The decision of the Tribunal was as follows:-

#### **Appellant's case**

The appellant had been working full time for the respondent since 3<sup>rd</sup> July 2006. However this employment became short time, mostly on a three day a week basis from mid August 2008. The work pattern changed from January 2009 he was employed much less frequently. On or about the 24<sup>th</sup> March 2009 the appellant received his P45 with a cessation date of 3<sup>rd</sup> March 2009. During the entire period of short time and lay off the appellant was available and willing to return to full time employment but stated that he was not offered this option. The appellant denied that he had left his employment of his own volition because of the respondent's refusal to pay his travel costs to work.

Shortly after receiving his P45 the appellant's Daughter wrote, on behalf of her Father, to the respondent requesting a redundancy lump sum payment. This letter was sent by registered post and also contained information on the procedure to be followed in relation to redundancy. The appellant's daughter expected that the respondent would reply to this request within seven days in accordance with procedure. However no reply was received within seven days.

### **Respondent's case**

The respondent stated that the appellant had been working full time until mid August 2008. After this work became scarce due to bad weather and a general downturn in the industry. Therefore the respondent could not continue to employ the appellant on a full time basis.

According to the respondent the appellant told him, on 27<sup>th</sup> February 2009, that he was resigning, as it was not paying him to travel to work. Consequently the respondent issued a P45 to the appellant. However the respondent subsequently verbally offered to re employ the appellant but this offer was rejected.

In response to the letter and information received from the appellant's Daughter the respondent sent a letter of reply stating that the appellant had resigned and had not been made redundant.

### **Determination**

Having carefully considered the evidence the Tribunal are satisfied that the appellant's employment was terminated due to redundancy. The respondent did not follow proper procedure insofar as he did not formally offer the appellant thirteen weeks continuous employment in response to his application for a redundancy lump sum payment.

The Tribunal awards the claimant a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

DOB	4 <sup>th</sup> Sept. 1958
Commencement Date	3 <sup>rd</sup> July 2006
Dismissal Notice Received	N/A
Termination date	3 <sup>rd</sup> March 2009
Non Reckonable Service	N/A
Gross pay	€370.00

This award is made subject to the claimant having been in insurable employment, during the relevant period, in accordance with the Social Welfare Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

