

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE –**Appellant**

RP901/2009

against

EMPLOYER -**Respondent**

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

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

Members: Mr. P. Casey
Ms. P. Doyle

heard this appeal at Cork on 31 March 2010

Representation:

Appellant:

Mr. Daniel Snihur, Independent Workers Union,
55 North Main Street, Cork

Respondent:

Director of the respondent

The determination of the Tribunal was as follows:

The appellant worked for the respondent from April 2006 until 21 November 2008 when he was issued with a P45. The respondent's position is that the proprietor told the appellant that there was no work for him but there would be in the future and that the appellant was laid off with the P45 issued for the purposes of assisting the appellant with Social Welfare. The appellant's position is that proprietor told him that there was no work and issued the P45. It is common case that the appellant was not given any notification of lay off in writing.

The appellant returned to work for the respondent on two occasions. The week commencing 15 December 2008, after which he was issued with a P45, and for some three weeks commencing 7 January 2009 and ending on 30 January 2009. A P45 in respect of these three weeks issued on 18 September 2009. The respondent gave the appellant a letter stating that he had been temporarily laid off at the end of these three weeks' work.

The respondent offered the appellant more work from the end of March 2009 at which time the appellant declined the offer of work and claimed redundancy on foot of the events of 21 November 2008. The respondent employed another to carry out the work on offer and employed this person for some six months.

Determination:

The Tribunal is satisfied, on the balance of probability, that the appellant was dismissed, by reason of redundancy, on 21 November 2008. It follows that the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

Date of Birth	22 September 1969
Employment commenced	1 April 2006
Employment ended	21 November 2008
Gross weekly pay	€622-00

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 payments from the social insurance fund are limited to a maximum of €600-00 per week

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)