

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

EMPLOYEE **- claimant**

MN292/2009
WT120/2009
RP282/2009
UD293/2009

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
UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J. Sheedy

Members: Mr J. Killian
 Mr J. McDonnell

heard this claim at Cork on 4th November 2009

Representation:

Claimant :
Colm Burke & Co. Solicitors, Washington House, 33
Washington Street, Cork

Respondent :
Not present or represented

The determination of the Tribunal was as follows:-

At the outset the Tribunal dealt with the Preliminary issue in relation to Unfair Dismissals Acts
1977 to 2007

Preliminary issue:

The claimant's employment ended on 14th March 2008. Form T1A lodging a claim under the Unfair Dismissals Acts, 1977 to 2007 was received by the Tribunal on 30th January 2009, which is outside the six month time limit for lodging a claim, as stipulated under Section 8(1)(2) of the Acts.

When asked by the Tribunal the claimant did not outline any exceptional circumstances which would allow it to extend the time limit to twelve months as outlined in Section 7(2)(b) of the Unfair Dismissals (Amendment) Act, 1993.

The Tribunal does not therefore have jurisdiction to hear the claim under the Unfair Dismissals Acts 1977 to 2007.

The Tribunal then proceeded to hear evidence in respect of the other claims lodged by the claimant.

Claimant's case:

The claimant commenced his employment with the respondent as a carpenter on 1st November 2004. On 14th March 2008 the respondent told him he had no more work and to wait for a call. The respondent promised to ring the claimant after Easter but did not do so. The claimant then rang the respondent and was again told there was no work. The claimant rang and left numerous messages for the respondent but got no response. The last message was left for the respondent on 20th August 2008.

The claimant did not receive a P.45. He never received a payslip and was paid in cash. When he checked with the Tax Office he was told the respondent did not register him.

Determination:

The Tribunal is satisfied that the claimant is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on the following:

Date of Birth	02 nd September 1954
Date employment commenced	01 st November 2004
Date employment ended	14 th March 2008
Gross weekly pay	€400

Please note that this award is being made subject to the claimant having been in insurable employment under the Social Welfare Acts during the relevant period.

The claimant is also entitled to €800 which is the equivalent of two weeks pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 and €280 under the Organisation of Working

Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

