

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:
EMPLOYEE- *appellant*

CASE NO.
MN1073/2009
WT475/2009

Against

EMPLOYER
-respondent

EMPLOYER
-respondent

EMPLOYER-*respondent*

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. Gilvarry

Members: Mr. D. Morrison
Ms. R. Kerrigan

heard this claim at Sligo on 20th January 2010

Representation:

Claimant: In Person

Respondent: In Person

The decision of the Tribunal was as follows: -

Appellant's Case

The appellant commenced employment as a mechanic on the 8th of January 1996. During the course of his employment with the respondent the appellant moved to different premises as per the stipulations of his contract. If the appellant did not like working at the new premises he had the option to return to the old premises within six months. The appellant was informed when he moved premises that his employment conditions would remain the same and that he would retain his years of service.

On the 5th of December one of the directors informed the appellant that he was leaving the business. He told the appellant to get all the remaining cars ready and close up and come back next week to sort out his wages and redundancy. There was a debate as to whether the appellant was entitled to a Redundancy Lump sum based on his full length of service or only the previous 2 years after here-located premises. The respondent agreed to and paid Redundancy based on the appellant's full length of service. The appellant had two days annual leave remaining when he received his dismissal notice.

Respondent's Case

The different premises where the appellant worked were owned and operated by separate companies owned by the same Directors. The respondent believes that the appellant was working for a separate company for the last two years of his employment and therefore entitled to Minimum Notice based on that service. The respondent agrees that the appellant was due two days annual leave.

Determination

Based on the evidence adduced, loss having been established, the Tribunal awards the claimant €3360.24 being the equivalent to six weeks' pay, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

The Tribunal also finds that the appellant is entitled to his statutory holiday entitlements, therefore awards the appellant the sum of €224.01 being the equivalent of 2 days pay under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)