

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE –**Appellant**

RP928/2009

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: Ms. M. Sweeney  
Mr. J. Flavin

heard this appeal at Cork on 29 March 2010

#### **Representation:**

Appellant:

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

Respondent:

Managing Director of the respondent

The determination of the Tribunal was as follows:

The appellant was employed on a full-time, 39 hour week, basis from November 2005. Following a downturn in business the appellant was placed on reduced hours of typically three days a week from 19 January 2009. The respondent served the appellant with form RP9 giving notice of short-time working at this time. On 24 February the appellant gave four weeks' notice of his intention to claim redundancy by reason of short-time working. On 24 February the appellant agreed to work another three days. The respondent's supervisor then informed the appellant of the availability of full-time work for him. The appellant refused this offer and left the employment. The respondent then hired another employee to replace the appellant.

**Determination:**

Section 11(2) of the Redundancy Payments Acts, 1967 to 2007 provides

*Where*

*(a) for any week an employee's remuneration is less than one-half of his normal weekly remuneration or his hours of work are reduced to less than one-half of his normal weekly hours,*

*(b) the reduction in remuneration or hours of work is caused by a diminution either in the work provided for the employee by his employer or in other work of a kind which under his contract the employee is employed to do.*

*(c) it is reasonable in the circumstances for the employer to believe that the diminution in work will not be permanent and he gives notice to that effect to the employee prior to the reduction in remuneration or hours of work,*

*the employee shall, for the purposes of this Part, be taken to be kept on short-time for that week*

Whilst the appellant was placed on a shorter working week from 24 January 2009 the reduction in weekly hours from 39 to around 24 did not meet the statutory definition of short-time working under the Redundancy Payments Acts. It follows that there is no entitlement to a lump sum payment under those Acts. Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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