

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE - *appellant*

CASE NO.
RP1378/2009
MN1201/2009

Against

EMPLOYER - *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms M. McAveety

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

heard this appeal at Letterkenny on 16th February 2010

Representation:

Appellant: In Person

Respondent: Mr. Gary O'Mahoney, IBEC, IR/Hr Executive, 84/86 Lower Baggot Street, Dublin 2

The decision of the Tribunal was as follows: -

Respondent's Case

The appellant was employed on a number of Fixed Term Contracts as follows;

17 th September 2001	-	31 st December 2001
7 th January 2002	-	31 st March 2002
9 th September 2002	-	31 st December 2002
6 th January 2003	-	26 th July 2003
29 th September 2003	-	31 st December 2003
1 st January 2004	-	1 st July 2004
13 th September 2004	-	31 st December 2004
1 st January 2005	-	31 st July 2005
26 th September 2005	-	31 st December 2005
1 st January 2006	-	28 th July 2006
18 th September 2006	-	31 st December 2006
2 nd January 2007	-	27 th August 2007
8 th October 2007	-	31 st December 2007
1 st January 2008	-	30 th June 2008

The appellant was employed as an instructor for students who planned to work on a fishing boat. The nature of the course meant that the respondent was only aware if there would be an adequate number of students to run the course immediately before the course was to commence. This is the reason the appellant was employed under so many fixed term contracts.

The HR Executive with the respondent, a semi-state body, received a directive from the parent Department in May 2008, instructing that all Fixed Term contracts should not be renewed. The respondent appealed this instruction to their parent Department and received sanction to extend the contracts for a further 3 months from June to September. This extension did not apply to the appellant as it was outside the academic year. The appellant's contract was not renewed when the final one expired in June 2008. The respondent did not give the appellant notice, as it was not required, the contract expired and was not terminated.

A permanent member of staff took over the appellant's teaching duties in September 2008. The instructors engaged to run exams are authorised by a separate parent Department to that of the respondent. Two people were engaged post June 2008 but were not given contracts rather they were engaged as contractors for a short period of time.

Appellant's Case

The appellant has a case with the Labour Relations Commission regarding the consecutive Fixed Term Contracts. The appellant is aware that his position was not made Redundant.

Determination

The appellant was employed on a Fixed-Term Contract, his contract expired but his position was not made Redundant. Accordingly the Tribunal must find that the claims under the Redundancy Payments Acts, 1967 to 2007 and the Minimum Notice and Terms of Employment Acts, 1973 to 2005 fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)