

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE -Appellant

CASE NO.
RP1521/2009

MN1321/2009
WT593/2009

against
EMPLOYER

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
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. N. Russell

Members: Mr. J. Browne
Ms. S. Kelly

heard this appeal at Carlow on 16th March 2010

Representation:

Appellant: In Person

Respondent: In Person

The decision of the Tribunal was as follows:

The Tribunal was informed that a Rights Commissioner had heard the appellant's claim under the Organisation of Working Time Act, 1997.

Background:

The appellant commenced employment with the respondent on the 1st July 2006. He completed his apprenticeship in November 2008 and was retained in the respondent's employment after this time. During December 2008 however, the respondent found it difficult to make holiday pay payments to his employees. The respondent gave evidence to the Tribunal that he had informed the appellant both in person and on the telephone that there was a lack of work. The appellant gave evidence that he received a telephone call from the respondent at approximately 2.30pm on the 27th February 2009. The respondent informed the appellant that no further work was available. The appellant stated that although the respondent had mentioned at times that the business was not doing well, there was no specific discussion about the appellant's position prior to the 27th

February 2009. The appellant was paid up to and including the 27th February 2009 and he received his P45.

Approximately one month later the appellant enquired if any work had become available with the respondent and he also raised the issue of a redundancy payment. The respondent told the Tribunal that the appellant's position has not been replaced.

Determination:

The Tribunal is satisfied 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:	2 nd September 1981
Date of Commencement:	1 st July 2006
Date of Termination:	27 th February 2009
Gross Weekly Pay:	€573.70

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

The Tribunal awards the appellant €1,147.40 (being the equivalent of two weeks' gross pay) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

The claim under the Organisation of Working Time Act, 1997 is dismissed, the claim having been heard by a Rights Commissioner.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)