

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE

CASE NO.
WT544/2009
RP1411/2009

against
EMPLOYER

under

ORGANISATION OF WORKING TIME ACT, 1997
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr T. Taaffe

Members: Mr. T. O'Sullivan
Mr T. Brady

heard this appeal at Dundalk on 31st March 2010

Representation:

Appellant(s) : Ms. Marie Hayes, Citizens Information Centre, Williamsons Mall, Francis Street,
Dundalk, Co Louth

Respondent(s) : In Person

The decision of the Tribunal was as follows:-

The claim under the Organisation of Working Time Act, 1997 was withdrawn.

Respondent's Case:

The owner of the respondent business gave evidence. He stated there was a decline in business in late December 2008 and he informed his 10 staff (including the appellant) that were to be put on short time. In February 2009 the appellant informed him he was happy to sign on and work for another contractor at night and weekends.

He received no further contact from the appellant until he received a letter from the Employment Appeals Tribunal informing him the appellant was taking a claim under the Redundancy Payments Acts, 1967 to 2007 and the Organisation of Working Time Act, 1997. At this point he still had no work for the appellant but had not dismissed him. He now employed 3 staff.

On cross-examination he stated he had not paid any other staff a redundancy payment, they had just left.

Appellant's Case:

The appellant gave evidence. He had worked for the respondent for 12 years full-time but was put on short time for a couple of months in early 2009. He signed on for Job Seeker Allowance on February 3rd 2009. He met with his employer's partner and discussed the possibility of a redundancy payment but was offered € 4,500. He said he would think about it. Having received advice from the Citizens Information Centre that he was entitled to redundancy he declined the offer of € 4,500.

On cross-examination he stated he had not worked for another contractor while signing on for benefits.

The person in the Citizens Information Centre whom the appellant sought advice from confirmed she had spoken to the appellant. She confirmed she advised him he was entitled to claim for redundancy and should decline the offer of € 4,500.

Determination:

Having heard the evidence adduced the Tribunal finds the appellant was on short time and was entitled to claim for redundancy.

Accordingly the Tribunal awards the appellant a lump sum payment under the Redundancy Payments Acts, 1967 To 2007, based on the following information:

Date of Birth:	16 February 1976
Date of Commencement:	10 June 1998
Date of Termination:	2 April 2009
Gross Weekly Pay:	€ 480.00

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

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)