

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE– *appellant*

RP954/2008

against

EMPLOYER– *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. R. O’Flynn BL

Members: Ms. M. Sweeney
Mr. J. McDonnell

heard this appeal at Cork on 18 May, 2 November and 7 December 2009

Representation:

Appellant: In Person

Respondent: Mr. John Henchion of John Henchion & Co. Solicitors.
Waterloo Road, Blarney, Co. Cork

The decision of the Tribunal was as follows:-

Appellant’s Case

The appellant gave evidence. He ceased working for the respondent in August 2008. He received no documents or information concerning the change. He found out when he made enquiries about his holiday entitlements. There was no interview with the new agency. He continued working as before. Initially he was paid €1 an hour less but this mistake was soon sorted out.

Respondent’s Case

The legal representative for the respondent argued that the appellant was not made redundant. The respondent lost the contract and the appellant and his colleagues transferred to the successful bidder. The appellant ceased working for the respondent but his job was not redundant. There are no documents relating to the appellant's transfer.

The proprietor of the respondent gave evidence. When the contract to supply workers to the client the appellant worked with came up for renewal there was a tender process. They were unsuccessful in the tender. The successful company contacted him and said that they would employ his three employees, including the appellant, and requested that he issue P.45s. He then contacted the client company and the appellant's supervisor to inform them. The appellant and his two colleagues were informed of the transfer after it happened.

The recruitment manager for the successful tendered gave evidence. When they were successful in the tender, their HR manager visited the premises where the appellant worked and registered him. His previous service was not counted, when the appellant was registered with them a new page opened. There was no break in the appellant's service and his work and conditions did not change. His supervisor at work stayed the same.

Determination

Having heard the evidence the Tribunal is satisfied that a termination of employment by reason of redundancy did not occur on or around 11 August 2008. The Tribunal is satisfied that there was a transfer of the appellant's employment from the respondent to Industrial Temps (Ireland) Limited on the aforesaid date, accordingly the appellant's employment was not severed and he enjoys the benefit of continued employment with Industrial Temps (Ireland) Limited based on a commencement date of 28 June 2004. Accordingly the claim under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)