

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYER

CASE NO.
RP1572/2009, MN1373/2009
WT 599/09

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
Mr F. Dorgan

heard this appeal at Wexford on 12th March 2010

Representation:

Appellant : In person

Respondent : In person

The decision of the Tribunal was as follows:

Appellant's Case

The appellant said he received notice from his employer on 23 January 2009 "that things were getting quiet". Following the completion of a day's work on a Saturday with the respondent the appellant then received a telephone call from him telling him not to report for work the following Monday. The appellant understood from that call that his job was "finished". There was no subsequent contact from the respondent nor did a P45 issue. He denied telling the respondent that he was "packing it in" or stating in any way that he was leaving.

Respondent's Case

The respondent had only one client and work with that customer had quietened down in 2008. He met the staff in early 2009 and most of them were willing to take a pay cut. The appellant was not agreeable to that and said he was "packing it in" and off to work elsewhere. The respondent denied phoning the appellant on the Saturday as described but did make contact with him the following Monday when the appellant announced he was no longer working for him. The respondent did not replace the appellant's position.

Determination

The Tribunal was presented with contrasting versions of events leading to the cessation of the appellant's employment. The respondent maintained that the appellant effectively resigned his employment while the appellant felt that the respondent made him redundant.

In the absence of supporting evidence, particularly correspondence, on this issue the Tribunal had only this brief evidence to rely on. Having considered this case the Tribunal prefers the evidence adduced by the appellant. Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2007 is allowed and the appellant is awarded a statutory lump sum under those Acts and based on the following:

Date of Birth: 6 July 1963
Date of Commencement : 25 March 2004
Date of Termination: 7 February 2009
Gross Weekly Wage: €769.73

Statutory redundancy payments are subjected to a weekly ceiling of €600.00

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

The Tribunal is satisfied that the appellant received sufficient notice of his redundancy in compliance with the relevant legislation. Therefore, the appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 fails.

The appeal under the Organisation of Working Time Act, 1997 falls for want of prosecution.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

