

## EMPLOYMENT APPEALS TRIBUNAL

**APPEAL OF:**

**CASE NO.**

EMPLOYEE

RP1717/09

- appellant

**Against**

EMPLOYER

- respondent

**under**

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr T. Taaffe

Members: Mr G. Andrews  
Ms M. Mulcahy

heard this appeal at Naas on 10th May 2010.

#### **Representation:**

Appellant: Mr. Bryan Coen, Solicitor, Coonan Cawley, Solicitors, Wolfetone House, Naas  
Town Centre, Naas, Co. Kildare

Respondent: In person.

The decision of the Tribunal was as follows:-

#### **Respondent's Case:**

The respondent received notification in January 2009 that work was slowing down in company MM. Staff were duly notified of lay off. Lay off occurred in the third week in January. Shortly afterwards work became available in company MM and staff were re-hired.

Following lay-off the appellant and a fellow employee sought a meeting with the MD. The MD duly met them. MD said that work would be available again and undertook to contact the appellant when work became available. The appellant said he did not wish to resume work with company MM. He said he wanted redundancy.

**Appellant's Case:**

Following the appellant's lay off he spoke to the MD. The MD told him that work might not be available again for weeks or months. The respondent undertook to contact the appellant in the event of work becoming available. He did not revert to the appellant when work became available shortly afterwards. The MD also informed him that he was self employed and therefore not entitled to a redundancy payment. He received a text message from the respondent in March 2009 concerning work.

**Determination:**

The Tribunal carefully considered the evidence adduced at the hearing. The Tribunal accepts the evidence of the respondent. A genuine redundancy situation did not exist and therefore the appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)