

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:

CASE NO.  
PW154/2009

EMPLOYER

**appellant**

against the recommendation of the Rights Commissioner in the case of:

EMPLOYEE

**respondent**

and

EMPLOYER

under

**PAYMENT OF WAGES ACT, 1991**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms V. Gates B.L

Members: Mr. N. Ormond  
Mr T. Brady

heard this appeal at Dublin on 19th April 2010

Representation:

\_\_\_\_\_

Appellant: The appellant in person

Respondent: The respondent in person

The decision of the Tribunal was as follows:-

This case came before the Tribunal by way of an employer appealing the decision of a Rights Commissioner reference r-054333-pw-07/EH dated 22 May 2009. The Rights Commissioner's decision was dated 15 January 2008 but this was amended to correctly identify the employer by amending order dated 22 May 2009. For purposes of clarification the appellant shall be referred to as the employer and the respondent as the employee.

## **Employer's Case**

The employer told the Tribunal that the employee commenced employment in April 2006. He paid him €8.30 per hour until October 2006 and €7.65 was the recommended rate. On 12 October 2006 he contacted the employee and he was informed that he was in London. The employer went to Nigeria on 13 October 2006. On the 16/17 October the employee had the key of the site. The employer could not contact the employee until he returned on 30 October. His supervisor met him at the airport and told him that there was a theft on site. He paid the employee for the 12 October. He then employed two more people. Work on the site ceased in November 2006. The employee left the site at the end of October 2006.

The employee received a cheque in December 2006 for work he undertook the previous month. The employee was paid in October 2006 for some work he undertook in June. When he left the site in November 2006 his records in the office were taken away. In October 2006 the site where the employee worked was closed. On 6 November he endeavoured to establish if the company he worked for could give him more work and he was the only person on site. He sent the employee his P45 in April 2007.

## **Employee's Case**

The employee told the Tribunal that it was not true that he was in London on 12 October and he could not be sure if he was in work on 15 October 2006. He worked extra hours when his employer was in Nigeria and he documented these hours on a time sheet. The employer made adjustments to his schedule. When he received payment in December 2006 he told the employer about the extra hours he worked for which he had not been paid. He asked the employer to look at his time sheets and if the employer had doubts regarding his time sheets all he had to do was check the logbooks. The employer refused to give him his pay. He kept account of the hours he worked and at the end of the month he gave them to his employer. He was not paid for approximately sixty-two hours and for premium pay.

He applied for implementation of a Rights Commissioner decision to the Circuit Court in June 2008 but it was not implemented, as it did not correctly identify the employer.

## **Determination**

Having heard the evidence adduced by both parties the Tribunal finds that the employee was not paid for all the hours he had worked. He was not paid for all the premium time that he was due. The Tribunal feel that €1,200.00 appropriate in all the circumstances and vary the decision of the Rights Commissioner.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

