

## EMPLOYMENT APPEALS TRIBUNAL

### APPEAL OF:

EMPLOYER  
- appellant

### CASE NO.

PW160/09

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

EMPLOYEE  
- respondent

**under**

### PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly BL

Members: Mr. L. Tobin  
Mr J. Flannery

heard this appeal at Naas on 28th April 2010.

### Representation:

Appellant: In person

Respondent: xxxxxxxx

This case came before the Tribunal by way of an appeal by the employer (the appellant) against the recommendation of the Rights Commissioner (ref. r-074701-pw-09/JW)

The decision of the Tribunal was as follows:-

### Appellant's Case:

The respondent commenced employment on 10<sup>th</sup> August 2007 and voluntarily left the company on 14<sup>th</sup> December 2008. He worked on sites and helped out a number of carpenters. He was employed as a pre-registered apprentice. It was explained to the respondent that they already had a number of registered apprentices, and as soon as a vacancy arose he would be considered for registration as an apprentice. The respondent was paid the standard rate of pay for a first year apprentice, €6.08 per hour. Due to an administration error union fees were deducted from the respondent's salary and the fees have since been reimbursed to him.

The appellant told the Tribunal that he believed a sum of €1200 was owed to the respondent.

The respondent texted the company on 14<sup>th</sup> August 2008 notifying them that he was leaving the

company.

The appellant told the Tribunal that the Registered Employment Agreement rates are not applicable to the company as its turnover in manufacturing is over 51%. Qualified joiners are paid in excess of the REA rate.

**Respondent's Case:**

The respondent commenced employment on 10<sup>th</sup> August 2007. He worked on sites and he was paid €6.08 per hour. He was told that he would be registered for an apprenticeship. He never received a contract of employment. He was temporarily laid off in early December 2008. He aired grievances with his employer following his temporary lay-off. He asked the appellant to complete the social welfare form to enable him to receive benefits. He received no response. Thereafter, he telephoned the appellant several times but to no avail. On 12<sup>th</sup> December he wrote to the appellant asking that he sign the social welfare form, and an RP9 form to confirm his temporary lay off. He received no response.

**Determination:**

The Tribunal carefully considered the evidence adduced at the hearing. The Tribunal is satisfied that no evidence was adduced to suggest that the respondent was not covered by the Construction Industry Registered Employment Agreement and accordingly upholds the Rights Commissioner decision under the Payment of Wages Act, 1991.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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