

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYER– appellant

CASE NO.
PW90/2009

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

EMPLOYEE– respondent
v
EMPLOYER
under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N O'Carroll-Kelly BL

Members: Mr F Cunneen
Mr J Dorney

heard this appeal at Dublin on 2nd March 2010

Representation:

Appellant(s): In person

Respondent(s): Mr Raymond O'Reilly
Independent Workers Union
SUI House, 61 North Strand Road, Dublin 3

This case came before the Tribunal by way of an employer appealing the decision of a Rights Commissioner ref: (r-068855-pw-08/RG).

The decision of the Tribunal was as follows:

Appellant's Case:

A witness for the appellant company stated that the company had been inspected by the Labour Inspectorate, in 2006, and some breaches of the legislation were found. He contended that the Inspector told him that only those employees who were paid the minimum wage had to be paid overtime and Sunday premium. Those who were paid over the minimum wage did not need to be paid overtime and Sunday premium. The employee was paid a rate higher than the minimum wage, €10.50 per hour, and was therefore not paid overtime or Sunday premium.

Respondent's Case:

The respondent (employee) gave evidence that she was employed from October 2006 until August 16th 2008. She was initially paid the minimum wage. Her pay was later increased to €10.50 per hour. She worked forty hours per week. She did not receive payment for overtime or extra remuneration for working on Sundays.

Determination:

There was no evidence advanced as to why the Employment Regulation Order (Catering) did not apply, and therefore, the Tribunal upholds the decision of the Rights Commissioner (r-068855-pw-08/RG) and awards the respondent (employee) €1058.75 (one thousand and fifty-eight euro, seventy-five cent) under the Payment Of Wages Act, 1991.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)