

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
EMPLOYEE            *-appellant*

CASE NO.  
RP1312/2009  
MN1149/2009

against

EMPLOYER *-respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal  
(Division of Tribunal)

Chairman:    Mr J Flanagan BL

Members:    Mr M Flood  
               Mr M O'Reilly

heard this claim at Dublin on 21<sup>st</sup> May 2010

#### **Representation:**

Appellant:    Mr Richard Grogan, Richard Grogan & Associates, Solicitors,  
                  16 & 17 College Green, Dublin 2

Respondent:  Mr Andrew Cody, Reidy Stafford, Solicitors,  
                  1-3 Moorefield Terrace, Newbridge, Co Kildare

The determination of the Tribunal was as follows: -

The appellant at the outset of the case withdrew the appeal under the Redundancy Payments Acts, 1967 to 2007.

#### **Determination**

The parties agreed that the total gross weekly remuneration of the appellant was €680.00 and consented to the making of an award under the Minimum Notice and Terms of Employment Acts, 1973 to 2005. The Tribunal understands that the award is to be made without prejudice to an outstanding claim under the Unfair Dismissals Acts, 1977 to 2007.

The Tribunal notes that section 8 Minimum Notice and Terms of Employment Act 1973 states:

*“Nothing in this Act shall affect the right of any employer or employee to terminate a contract of employment without notice because of misconduct by the other party.”*

The Tribunal is satisfied that the making of an award under the Minimum Notice and Terms of Employment Acts does not constitute an implicit finding by the Tribunal that there was an absence

of misconduct. The Tribunal is also satisfied that the concession by an employer that an employee was entitled to statutory minimum notice does not constitute an admission by the employer that the employment was terminated for reasons other than misconduct. The Tribunal is therefore of the view that it can make the determination sought in relation to minimum notice without prejudicing the pending unfair dismissal case.

On the consent of the parties the Tribunal therefore finds that the appellant is entitled to compensation of €1360.00, which is equivalent to two weeks gross pay (€680.00 per week) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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