

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE

appellant

TE217/2009
UD2100/2009

EMPLOYEE

appellant

TE218/2009
UD2101/2009

for implementation of the recommendation of the Rights Commissioner
in the case of:

EMPLOYER

EMPLOYER - *respondent*

Under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr R. Murphy
Mr F. Barry

heard this claim at Dublin on 12th July 2010

Representation:

Claimant(s): Mr. Patrick McMahon, B P O'Reilly & Co, Solicitors, Coric
House, Main Street, Tallaght, Dublin 24

Respondent(s): In person

The determination of the Tribunal was as follows:-

Determination

This implementation came before the Tribunal by way of a Rights Commissioners decision dated 26 May 2009 references r-072136-ud-08/RG, r-072142-te-08/Rg, r-072045-ud-08/Rg and r-072047-te-08/Rg under the Unfair Dismissals Acts, 1977 to 2007 and the Terms of Employment (Information) Act, 1994 and 2001.

Section 8(4) (a) of the Unfair Dismissals Act, 1977 as substituted by S. 7 of the Unfair Dismissals (Amendment) Act, 1993, states:

“Where a recommendation of a rights commissioner in relation to a claim for redress under this Act has not been carried out by the employer concerned in accordance with its terms, the time for bringing an appeal against the recommendation has expired and no such appeal has been brought, the employee concerned may bring the claim before the Tribunal and the Tribunal shall, without hearing the employer concerned or any evidence (other than in relation to the matters aforesaid), make a determination to the like effect as the recommendation”..

Section 8(6) of the Terms of Employment (Information) Act 1994 as amended states

“Where a recommendation of a rights commissioner in relation to a complaint under this Act has not been carried out by the employer concerned in accordance with its terms, the time for bringing an appeal against the recommendation has expired and no such appeal has been brought, the employee concerned may bring the complaint before the Tribunal and the Tribunal shall, without hearing the employer concerned or any evidence (other than in relation to the matters aforesaid), make a determination to the like effect as the recommendation.”

The Tribunal being satisfied that the time limit to appeal the decisions of the Rights Commissioner have expired without an appeal having been brought and the relevant payments being completed.

Accordingly the Tribunal orders that the Rights' Commissioner's decision to make an award of €2870.00 under the Unfair Dismissals Acts, 1977 to 2007 and €100.00 under the Terms of Employment (Information) Act, 1994 to 2001 to the first named appellant be implemented on receipt of this determination.

The Tribunal orders that the Rights' Commissioner's decision to reinstate the second named appellant from the date of his dismissal and the period since should be considered a suspension without pay under the Unfair Dismissals Acts, 1977 to 2007 and that the Rights' Commissioner's decision to make an award of €100.00 to the second named appellant under the Terms of Employment (Information) Act, 1994 to 2001 be implemented on receipt of this determination.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

