

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE – appellant

CASE NO.
RP2564/2009
MN2094/2009
WT951/2009

&

EMPLOYEE - appellant

RP2688/2009
MN2178/2009
WT997/2009

against

EMPLOYER – respondent

Under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Dr A Courell BL

Members: Mr T Gill
Mr T Gill

heard this appeal at Sligo on 28th May 2010

Representation:

Appellant(s): Ms Sarah Sharpley
Leitrim C I S, Bridge Street, Drumshambo, Co Leitrim

Respondent(s): No appearance or representation

The decision of the Tribunal was as follows:

There was no appearance by, or representation on behalf of, the respondent. The Tribunal is satisfied that the respondent was on notice of the hearing.

The first named appellant gave evidence that on May 22nd 2009 his employer told him that there was no more work. His employer signed an RP50 form, but put the appellant's start date as being in 2005. The appellant commenced his employment in 1998, but in 2005 his employer

hanged from being a sole trader to a limited company. He did not take any holidays in 2009. He was paid for bank holidays. He contended that he was paid less than the registered employment agreement for the construction industry.

The second named appellant gave evidence that on May 22nd 2009 his employer told him that there was no more work. His employer signed an RP50 form, but put the appellant's start date as being in 2005. The appellant commenced his employment in 2001, but in 2005 his employer changed from being a sole trader to a limited company. He continued to do the same work, only the employer's name on his payslip changed. He did not take any holidays in 2009. He was paid for bank holidays. He contended that he was paid less than the registered employment agreement for the construction industry.

Determination:

The Tribunal is satisfied that a transfer of undertakings occurred in 2005. The Tribunal finds that a redundancy situation existed and that the appellants are entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following information:

First named appellant (ref: RP2564/2009)

Date of Birth:	26 th January 1957
Date of Commencement:	7 th April 1998
Date of Termination:	22 nd May 2009
Gross Weekly Pay:	€641.16

Second named appellant (RP2688/2009)

Date of Birth:	10 th May 1951
Date of Commencement:	10 th September 2001
Date of Termination:	22 nd May 2009
Gross Weekly Pay:	€641.16

These awards are made subject to the appellants having been in insurable employment under the Social Welfare Acts during the relevant period. It should be noted that a statutory weekly ceiling of €600.00 applies to payments from the Social Insurance Fund.

The Tribunal awards the first named appellant (**ref: MN2094/2009**) €3846.96 (three thousand eight hundred and forty-six euro, ninety-six cent) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, in respect of six weeks notice.

The Tribunal awards the second named appellant (**ref MN2178/2009**) €2564.64 (two thousand five hundred and sixty-four euro, sixty-four cent) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, in respect of four weeks notice.

The Tribunal awards the first named appellant (**ref: WT951/2009**) €1025.84 (one thousand and twenty five euro, eighty-four cent) in respect of eight days holidays due for 2009 under the Organisation of Working Time Act, 1997.

The Tribunal awards the second named appellant (**ref: WT997/2009**) €1025.84 (one thousand and twenty five euro, eighty-four cent) in respect of eight days holidays due for 2009 under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)