

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE
- *appellant*

CASE NO.
MN1983/2009

RP2407/2009

against
EMPLOYER - *respondent*

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr R. Maguire B.L.

Members: Mr J. Hennessy
Ms. N. Greene

heard this appeal at Abbeylax on 10th June 2010

Representation:

Appellant(s) : Mr Henry O'Shea, SIPTU, Church Street, Tullamore, Co Offaly

Respondent(s) : In Person

The decision of the Tribunal was as follows:-

Claimant's Case

The claimant told the Tribunal that he commenced working for the respondent in May 2006. On 21 May 2009 he was told that there was no more work for him on the site. He spoke with GD from the respondent company and informed him that he might go to work in England but decided against that as he felt he was too old and had suffered a health scare. He told the Tribunal that he did not work for a competitor of the respondent after finishing working for the respondent. He received his P45 approximately 6 weeks after the termination of his employment. He also received his holiday money and was not offered work by the respondent after 21 May 2009. He accepted that the respondent was a nice company in which to work.

Respondent's Case

GD, operations manager for the respondent company told the Tribunal that the claimant worked as a ganger for the respondent company for approximately 3 years. Work on the particular site where the claimant was employed came to an end in May 2009 and he informed the claimant that he would have more work available for him within a couple of days. The claimant replied that he would probably head off to England and the witness understood from this that he went to England. However some months later the witness discovered that the claimant was working for a competitor on the same site where he had been employed by the respondent. The claimant was never made redundant as the respondent had work available for him.

Determination

Based on the evidence adduced the Tribunal is not satisfied that a genuine redundancy situation existed. Accordingly the Tribunal determines that the claims under the Redundancy Payments Acts 1967 to 2007 and the Minimum Notice and Terms of Employment Acts 1973 to 2005 fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

