

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE - appellant

CASE NO.
RP1810/2009
WT676/2009

against
EMPLOYER – respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms F Crawford BL

Members: Mr M Murphy
Mr O Nulty

heard this appeal at Drogheda on 9th April 2010

Representation:

Appellant(s): In person

Respondent(s): Mr Christopher Horrigan
Blake Horrigan, Solicitors
McKeever House, 4/5 Ushers Court, Ushers Quay, Dublin 8

The decision of the Tribunal was as follows:

Appellant's Case:

The appellant commenced his employment with the respondent company in September 2005 as a valet. Towards the end of 2008 his pay was reduced. In January 2009 his employer told him that he was being put on part-time hours. He began having difficulties claiming social welfare payments as he was working more than three days per week. His social welfare payment was reduced as he was working five days per week and so he had to leave the job.

By July 2009 he did not have enough money to drive to work everyday and support his family. He asked his employer for a loan of €2,000.00, but was refused. He asked for full-time work but he was refused. He then asked for a redundancy payment as he had been refused full-time work. His employer asked him to stay but he said he could not stay on working part-time hours over five days.

During cross-examination the appellant agreed that the business was under pressure in 2009. The

appellant accepted the sheet of his hours submitted. The sheet showed that the he had not been paid less than half his wages in 2009 compared to 2008. He agreed that the work involved logging into a computer to do a particular task. He could do the job and then leave. He agreed that his employer told him that when things improved so would his situation.

Respondent's Case:

A director of the respondent company gave evidence that in 2009 the appellant normally worked over a three-day week. He occasionally worked over four days. The company hires commercial vehicles and the appellant's role was to clean and park them. A clock system is used whereby employees can scan in and out of jobs. The appellant often came and went between jobs. The appellant asked him for a redundancy payment but he refused as he wanted him to stay.

Determination:

The Tribunal finds, after carefully considering all the evidence and submissions made, that the position was still available, and that the employer was encouraging the appellant to stay in the job with a three day week, and that the appellant was not on short time as per the Redundancy Payments Acts, 1967 to 2007, and therefore is not entitled to a redundancy payment.

The Tribunal dismisses the claim under the Organisation of Working Time Act,1997, as there was no evidence heard relevant to that Act.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)