

**EMPLOYMENT APPEALS TRIBUNAL**

APPEALS OF:

CASE NO.

EMPLOYER

PW111/2008  
TE81/2008

against the recommendation of the Rights Commissioner in the case of:

EMPLOYEE -v-  
EMPLOYER  
under

**PAYMENT OF WAGES ACT, 1991  
TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J. Sheedy

Members: Mr D. Hegarty  
Mr K. O'Connor

heard this appeal at Cork on 22nd January 2009

Representation:  
\_\_\_\_\_

Appellant :

Mr Dermot Conway, Conways, Solicitors, 35 South Terrace, Cork

Respondent :

Mr Noel Murphy, Independent Workers Union, 55 North Main Street, Cork

The decision of the Tribunal was as follows:-

This case came before the Tribunal by way of an appeal by the employer against the recommendation of a Rights Commissioner, Ref: r-057100-pw-07/GC and r-057101-te-07/GC: dated 8<sup>th</sup> May 2008

At the outset and on consent of the parties, the Tribunal amended the respondent name under Section 39 (1)(2) of the Organisation of Working Time Act, 1997

**Preliminary Issue:**

The Rights Commissioners decision was dated 8<sup>th</sup> May 2008 and the appeal was received by the Tribunal on 24<sup>th</sup> June 2008 which is outside the six week time limit for lodging an appeal under Section 7 (2) of the Payment of Wages Act, 1991 and Section 8 (2) (a) of the Terms of Employment (Information) Act, 1994. The Rights Commissioners office confirmed that the decision was posted on 9<sup>th</sup> May 2008 therefore the employer would have received it on 9<sup>th</sup> May or 12<sup>th</sup> May at the latest. The respondent was allowed a period of time to 5<sup>th</sup> March, 2009 to obtain and send to the Tribunal, An Post documentation verifying the precise date it received the Rights Commissioners decision. There was no response from the respondent or its representative within that time frame.

**Determination:**

As the appeals under the Payment of Wages Act, 1991 and the Terms of Employment (Information) Acts, 1994 were received outside the six-week time limit the Tribunal does not have jurisdiction to hear this case.

During the course of the Rights Commissioners hearing the claim under the Payment of Wages Act, 1991 was withdrawn as the holiday claim was being pursued under the Organisation of Working Time Act, 1997. As the claim was withdrawn the Tribunal cannot make a determination in respect of this Act.

The Rights Commissioners decision under the Terms of Employment (Information) Act, 1994 stands.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

