

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE - appellant

CASE NO.
RP874/2009
WT344/2009

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: Mr. E. Murray

Members: Mr. D. Hegarty
Ms. P. Doyle

heard this appeal in Clonakilty on 12 April 2010

Representation:

Appellant(s):
Ms. Laura McInerney, Wolfe & Company, Solicitors,
Market Street, Skibbereen, Co. Cork

Respondent(s):
No legal representation

The decision of the Tribunal was as follows:-

The appellant sought a redundancy award on the grounds that her employment with the respondent which had commenced on 27 February 2006 had ended on 16 October 2008 by reason of redundancy. The appellant's representative clarified the termination date as having been 15 October 2008.

At the hearing the respondent agreed the appellant's date of termination and acknowledged that the business had closed but said that there had been a break in the appellant's service (from week ended 23 February 2007 to week ended 31 March 2007 inclusive) such that the appellant did not have the

two years' continuous service required for entitlement to a redundancy lump sum. The appellant's representative replied that this had been an authorised break which had been discussed with her manager a number of months prior to the appellant taking the time off.

Asked if a claim lodged under the Organisation of Working Time Act, 1997, was being pursued, the appellant's representative said that it was not.

Giving sworn testimony, the respondent said that she had never been told of the appellant's break although she had known that the appellant's husband had been ill. Asked if she had terminated the appellant's employment at the time of the break, the respondent replied that she had had to get another person. However, when the respondent was asked if, at the time of the break, there had been a formal termination of the appellant's employment, she admitted that there had been no letter from either side at that time.

Giving sworn testimony, the appellant said that she had worked for the respondent from 26 February 2006 to 16 October 2008. She had initially worked one day per week but had filled in when another lady had been sick. Her gross weekly pay had been €216.00.

Determination:

Given that there was no evidence of a formal termination of the appellant's employment during the break (24 February 2007 to 31 March 2007 inclusive) acknowledged by both sides to have occurred, the Tribunal makes a finding under the Redundancy Payments Acts, 1967 to 2007, that the appellant is entitled to a redundancy lump sum based on the following details.

Date of birth:	17 November 1956
Date of commencement:	27 February 2006
Date of termination:	15 October 2008
Gross weekly pay:	€216.00

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period including the break from 24 February 2007 to 31 March 2007 inclusive.

The claim lodged under the Organisation of Working Time Act, 1997, is dismissed for want of prosecution.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)