

EMPLOYMENT APPEALS TRIBUNAL

Appeal of:
EMPLOYEE
 -Appellant A

Case No.

RP867/2010
MN641/2009

EMPLOYEE
 -Appellant B

RP868/2010
MN642/2009

against
EMPLOYER
 -Respondent

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. P. Hurley

Members: Mr. W. O'Carroll
 Ms. S. Kelly

heard this appeal at Limerick on 28th May 2010

Representation:

Appellant: Mr. Ger Kennedy, Siptu, Connolly Hall, Churchwell,
 Tipperary Town, Co. Tipperary

Respondent: Mr. Mark Potter, Solicitors, 1 Killoran Terrace,
 Catherine Place, Limerick

The decision of the Tribunal was as follows:

Preliminary Issue:

The appellants' employment was terminated on the 16th March 2007 and had completed this as their date of termination on their T1A forms. The Tribunal received the forms on the 19th March 2009. Representation for the appellants sought to amend the date of termination to include the period of six weeks notice owing to the appellants, thus bringing them within the 104 weeks time limit as set down by the Redundancy Payments Acts.

Representation for the appellant further outlined to the Tribunal the delay in bringing the appeals

under the Acts. The union was in the process of negotiations with the respondent for an enhanced redundancy package at the Labour Relations Commission. There were three conciliation meetings between the union and the respondent, the last of which took place in November 2008. The union had achieved an offer from the respondent of an enhanced redundancy package for the employees. However, when the union requested a further meeting the respondent declined and withdrew from the process.

The union referred the matter to the Labour Court in April 2009 and the recommendation of the Labour Court issued on the 23rd March 2010.

Determination on Preliminary Issue:

The Tribunal finds that as set out under S.2 (a) the date of dismissal is deemed to be the date on which their notice expired. Accordingly, the Tribunal amended the date of dismissal on the T1A forms to the 27th April 2007.

The Tribunal finds that the process entered into by the appellant's representation with the respondent satisfies the reasonable cause needed to extend the time limit from 52 weeks to 104 weeks as set out in S.24 of the Principal Act as amended by S.12 of Redundancy Payment Act, 1971. The Tribunal proceeded to hear the appeals.

Substantive Issue:

The respondent was absent from the hearing but a legal representative was present on her behalf. The respondent did not contest the redundancy appeals.

Determination:

Appellant A:

The Tribunal finds that Appellant A is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Birth:	29 th May 1954
Date of Commencement:	8 th February 1994
Date of Termination:	27 th April 2007
Gross Weekly Pay:	€99.60

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

The Tribunal finds that Appellant A is entitled to the sum of €597.60 (being the equivalent of six weeks gross pay) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Appellant B:

The Tribunal finds that Appellant B is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Birth:	6 th August 1971
Date of Commencement:	29 th April 1994
Date of Termination:	27 th April 2007
Gross Weekly Pay:	€315.40

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

The Tribunal finds that as Appellant B was not able and available to work in the notice period, her claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, must fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)