

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

EMPLOYEE

CASE NO.

MN111/2010

- first named claimant

EMPLOYEE

MN112/2010

- second named claimant

EMPLOYEE

MN113/2010

- third named claimant

against

EMPLOYER

- respondent

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr E. Harrington

Members: Mr D. Hegarty
Ms H. Kelleher

heard this claim at Cork on 16th June 2010

Representation:

Claimants(s) : Mr. James Coughlan, Irish National Painters & Decorators Trade Group, Siptu,
Liberty Hall, Dublin 1

Respondent(s) : David O'Mahony, Eamon Murray & Co., Solicitors, 6/7 Sheres Street, Cork

The decision of the Tribunal was as follows:-

Background:

The three named claimants were given verbal notice in early December 2008 by the respondent that, due to a downturn in work, work might not be available after December 2008. The first named claimant and the second named claimant continued in work in December 2008 and were provided with employment in January 2009. They were then laid off on January 30th 2009. The third named claimant was absent on sick leave from January 4th 2009. At no stage did any claimant receive notice in writing nor did any claimant receive any notice, verbal or otherwise, in January 2009.

The third named claimant continued to submit certified medical certificates and telephoned the respondent on a number of occasions to see if there was any work for him although he was still unavailable for work. He stated that he was informed by telephone on May 7th 2009 that he was let go.

The respondent agreed he had put the claimants on protective notice and terminated the employment of the first named claimant and the second named claimant in January 2009. The third named claimant was on sick leave but did contact the respondent on a number of occasions to see if there was any work available. The respondent informed the third named claimant that there was work available but the third named claimant told him he had better let him go. The respondent stated that the third named claimant was not let go but left of his own accord.

Determination:

First Named Claimant

Loss having been established the Tribunal awards the sum of € 2,910.60, this being four weeks gross pay, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Second Named Claimant

Loss having been established the Tribunal awards the sum of € 2,910.60, this being four weeks gross pay, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Third Named Claimant

The Tribunal is not satisfied that the Respondent terminated the contract of employment and accordingly makes no award under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____
(Sgd.) _____
(CHAIRMAN)