

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE

RP753/2009

against
EMPLOYER

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. Gilvarry
Members: Mr. D. Morrison
Mr. M. McGarry

heard this appeal at Letterkenny on 7th December 2009

Representation:

Appellant:

The appellant in person

Respondent:

The respondent in person

The decision of the Tribunal was as follows:-

Claimant's Case

The claimant was laid off on 8th August 2008. He started work with the respondent on 3rd January 2001. ET and PJ were both directors of this company. On 1st October 2005 the claimant was told that he now worked for ET. However he did not receive a P45 from the company nor was he paid a redundancy lump sum. He never received pay slips from either the company or ET.

Therefore the claimant maintained that he was employed by the respondent from 3rd January 2001 to 8th August 2008 and should have been paid a redundancy lump sum based on this service.

Respondent's case

The respondent agreed that he had been a director of the company in which the claimant was employed from 3rd January 2001. He also agreed that he directly employed the claimant from 1st October 2005 and that he laid the claimant off on 8th August 2008.

The respondent was aware of the provisions of the EU directive on transfer of undertakings but maintained that these were two completely different companies.

Determination

It is common case that the respondent was the employer of the claimant from 3rd January 2001 to 8th August 2008. This is pursuant to section 3(c) of the Redundancy Payments Act, 2003. The Tribunal is satisfied that there was a transfer of undertakings subject to the European Communities (Protection Of Employees On Transfer Of Undertakings) Regulations 2003.

The tribunal awards the claimant a lump sum redundancy payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

DOB	3 rd July 1971
Commencement Date	3 rd Jan. 2001
Date notice received	8 th Aug. 2008
Termination date	8 th Aug. 2008
Gross pay	€500.00

This award is made subject to the claimant having been in insurable employment, during the relevant period, in accordance with the Social Welfare Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

