

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE

-appellant

CASE NO.
RP2712/2009
MN2193/2009

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: Ms. K. O'Mahony B.L.

Members: Ms M. Sweeney
Mr J. Flavin

heard this appeal at Killarney on 18th June 2010

Representation:

Appellant: In Person

Respondent: In Person

The decision of the Tribunal was as follows: -

Appellant's Case

The appellant commenced full-time employment on the 4th of May 2004. On the 19th of February 2009 the appellant accepted the respondent's request to work a reduced 3-day week. In March the appellant's work was reduced further to a 1-2 day working week depending on how busy the respondent was. At the start of August 2009 the appellant sought independent advice on her employment and as a result she submitted the RP9, notice to claim redundancy form, on the 6th of August requesting a guaranteed 3-day week. On the 14th of August the respondent notified the appellant verbally that she could re-commence a 3-day week. On two occasions the appellant requested written confirmation of the 3-day week but never received it.

On the 30th of September the respondent called the appellant to the office and handed her the signed RP50 notification of redundancy form and a cheque. The appellant was not given any notice but as she continued to work after she submitted the RP9 form she assumed she would be entitled to minimum notice. There were no alternative positions discussed. The appellant again sought advice and on foot of that, wrote to the respondent on the 8th of October requesting her notice and her

holiday entitlements that would have accrued during the notice period. The respondent denied that the appellant was entitled to notice as she had served the RP9 on the employer and maintained she had received all her holiday entitlements.

The appellant disputes that she had any agreement with the respondent to take redundancy in October.

Respondent's Case

The respondent does not dispute the appellant's evidence up to the submission of the RP9 form. After the appellant submitted the RP9 form the respondent and appellant came to the agreement that if work hadn't increased enough for the appellant to resume her full-time 5-day week by October she would be given redundancy. As work had not increased by September the respondent gave the appellant the RP50 form as agreed. In October the respondent received a request for minimum notice and the holiday entitlements that would have accrued during the notice period. The respondent sought independent advice and was informed that as the appellant had served the RP9 form she was not entitled to minimum notice, all holiday entitlements had been paid.

Determination

The appellant received her statutory redundancy entitlement based on the accepted 3-day week; therefore the claim under the Redundancy Payments Acts 1967 to 2007 fails.

The appellant was made redundant on the 30th of September after serving the RP9 notice to claim redundancy on the 6th of August 2009. By serving the RP9 on the respondent the appellant waived her right to minimum notice therefore the claim under the Minimum Notice and Terms of Employment Acts 1973, to 2005 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)