

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE
MN66/2010
against

appellant

CASE NO.
RP106/2010

EMPLOYER

respondent

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms F. Crawford B.L.

Members: Mr D. Peakin
Mr P. Trehy

heard this appeal at Dublin on 17th August 2010

Representation:

Appellant(s): The appellant in person

Respondent(s): In person

The decision of the Tribunal was as follows: -

Appellant's Case

The appellant told the Tribunal that he was employed with the respondent from 11 November 2007 until 27 November 2009. The appellant was informed on 27 November 2009 between 3 to 4p.m. that the respondent had closed. The respondent tendered for a contract with another company and was unsuccessful. A consultancy company took over this contract and asked the appellant to undertake work for it. The appellant commenced employment with the consultancy company directly after his employment ceased with the respondent. The work that he undertook for the consultancy company differed to that of the respondent.

Respondent's Case

AM, director of the respondent told the Tribunal that the appellant was involved in establishing the respondent company. AM and another director got involved at a later stage and obtained funds to establish the respondent. A meeting took place on 24 October 2008, in attendance were the appellant, the witness and the other director AK. At the meeting the matter for discussion was contracts, which had been lost, and also contracts, which had been cut.

If the appellant was absent from work he deputised for him. Due to financial constraints he could not continue in business. He submitted a tender to the company that the appellant then worked with but was unsuccessful. The consultancy company took over the terms of entitlement.

He spoke to the appellant and told him that his job was safe. The appellant was on protective notice for twelve months.

Determination

Having heard all the evidence in this case the Tribunal finds that a transfer of undertaking did not take place and the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria: -

Date of birth:	20 July 1977
Date employment commenced	09 November 2007
Date employment ceased	27 November 2009
Gross weekly pay	€645.56

Please note that there is a weekly ceiling of €600.00 on all awards made from the Social Insurance Fund.

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

As the appellant obtained employment directly after he was made redundant he is not entitled to compensation under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

