

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:  
EMPLOYEE

- Appellant 1

CASE NO.  
RP896/2009

EMPLOYEE

- Appellant 2

RP1000/2009

EMPLOYEE

- Appellant 3

RP1001/2009

against

EMPLOYER

- Respondent

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. S. McNally

Members: Ms. M. Sweeney  
Ms. H. Kelleher

heard these appeals in Cork on 26 January 2010

Representation:

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Appellants:

Mr. Mateusz Mis, 3 Laurel View, Castlepark, Mallow, Co. Cork

Respondent :

No attendance or representation

The decision of the Tribunal was as follows:-

Appellant 1 told the Tribunal that he began working for an employment agency (hereafter referred to as EXX) on 27 June 2005. On 13 October 2006 his site foreman told him that there was no more work. Later that day, he commenced employment with the respondent on the same construction site on slightly higher wages. Having been made redundant by the respondent on 27 November 2008, he appealed to the Tribunal for a redundancy award. His gross weekly pay from the respondent was €729.12.

Appellant 2 told the Tribunal that he began working for EXX on 18 August 2005. His employment with EXX ended on 13 October 2006 and he commenced employment with the respondent later in the same day. Having been made redundant by the respondent on 27 November 2008, he appealed to the Tribunal for a redundancy award. His gross weekly pay from the respondent was €729.12.

Appellant 3 told the Tribunal that he began working for EXX on 14 May 2004 but that on 13 October 2006 he finished working for EXX and commenced employment with the respondent. Having been laid off as of 14 December 2008 and having received a P45 as of 1 January 2009, he appealed to the Tribunal for a redundancy award. His gross weekly pay with the respondent was 779.40.

No evidence was offered by or on behalf of the respondent.

#### **Determination:**

Having considered the evidence adduced, the Tribunal finds that there was not a transfer of undertaking from the employment agency to the respondent on 13 October 2006 such as would enable the respondent's employees to carry forward their service with the agency as reckonable service for the purposes of their employment with the respondent. However, the Tribunal does find, under the Redundancy Payments Acts, 1967 to 2007, that each appellant is entitled to a redundancy lump sum based on the following details:

#### Appellant 1

Date of birth:	30 April 1949
Date of commencement:	13 October 2006
Date of termination:	27 November 2008
Gross weekly pay:	€729.12

#### Appellant 2

Date of birth:	22 July 1959
Date of commencement:	13 October 2006
Date of termination:	27 November 2008
Gross weekly pay:	€729.12

#### Appellant 3

Date of birth: 29 September 1960  
Date of commencement: 13 October 2006  
Date of termination: 01 January 2009  
Gross weekly pay: €779.40

It should be noted that payments from the social insurance fund are limited to a maximum of €600.00 per week.

These awards are made subject to the appellants having been in insurable employment under the Social Welfare Acts during the relevant period.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)