

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

UD1244/08
TE145/08
– appellant

for implementation of the recommendations of the Rights Commissioner
in the case of:

EMPLOYER - respondent

EMPLOYER - respondent

under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001 UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J Flanagan BL

Members: Mr J Horan
Mr A Butler

heard these appeals at Naas on 3rd March 2009 and 10th November 2009.

Representation:

Appellant: In person on 3rd March 2009. No appearance by or on behalf of the appellant on 10th November 2009.

Respondent: No appearance by or on behalf of the respondent on 3rd March 2009 or on 10th November 2009.

The determination of the Tribunal was as follows:-

This case came before the Tribunal where the appellant was seeking implementation of the recommendations of the Rights Commissioner under the Unfair Dismissals Acts, 1977 to 2007 and the Terms of Employment (Information) Act, 1994 and 2001 ref. r-061523-ud-08/JT and ref. r-061524-te-08/JT.

Determination:

The Tribunal noted at the hearing on 3rd March 2009 that in the recommendation of the Rights Commissioner the name of the employer was given as “xxxxx” which is a registered business name but is obviously not the name of any legal person. The Tribunal then carried out a Companies Registration Office search and it appears that this business name is registered to a limited liability company. The Tribunal also noted that there was no appearance by or on behalf of the respondent at the hearings before the Rights Commissioner. Furthermore the Secretariat to the Tribunal had on file a letter from the director of this limited liability company written on behalf of the company and dated 18th August 2008 claiming that “I was not present at this meeting due to no notice being given to me regarding the date of the hearing...” and referring to the hearing before the Rights Commissioner. The Tribunal further noted that the address of the respondent furnished by the appellant and used to serve notice of these proceedings was not the address as it appears in the register of the Companies Registration Office of the limited liability company to whom the business name was registered. Furthermore, the name of the second named respondent in the proceedings filed by the appellant before this Tribunal for the implementation of a recommendation of the Rights Commissioner does not appear as a party on the original recommendation of the Rights Commissioner. The Tribunal expressed its concerns as to the enforceability of such a recommendation, summarised the issues as to service and jurisdiction and suggested that the appellant seek advice urgently and adjourned the hearing on 3rd March 2009 to afford the appellant time to do so.

At the re-convened hearing on 10th November 2009 there was no appearance by or on behalf of either the appellant or the respondent. The Tribunal was satisfied that the appellant was properly notified of the hearing on the resumed date. The Secretary to the Tribunal telephoned the appellant’s mobile number at 11.15am but was unable to make contact with him.

Accordingly, the Tribunal dismisses both the appeals for implementation of the Rights Commissioner under the Terms of Employment (Information) Act 1994 and 2001 and the Unfair Dismissals Acts, 1977 to 2007 for want of prosecution.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)