

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE

MN764/2009
RP817/2009

- *appellant*

against

EMPLOYER

- *respondent*

under

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: Mr J Flanagan BL

Members: Mr T O'Sullivan
Mr J Moore

heard this appeal at Dundalk on 15th March 2010

Representation

Appellant: Parents of the appellant

Respondent: Mr Conor Breen, McDonough & Breen, Solicitors,
Distillery House, Distillery Lane, Dundalk, County Louth

The decision of the Tribunal was as follows: -

Determination

The appellant was not present on the day of the hearing but was represented by his parents. The Tribunal enquired as to whether the appellant's representatives had any admissible evidence to present including documentary evidence that might assist in proving the appellant's case. The Tribunal indicated that it would do what it could to facilitate the appellant but due regard must be had to basic principles of fairness. Having carefully enquired of the appellant's representatives the Tribunal found that they were not in a position to present sufficient admissible evidence.

The Tribunal notes that the Form T1A filed on behalf of the appellant contains the sentence "*When I informed my employer that I would be emigrating to New Zealand he asked me to leave on the following Friday.*" It was the respondents case as set forth in the Form T2 that "*Earlier in 2008 [the appellant's first name] informed me that he and his new wife would be going to New Zealand to live as his wife is a native of that country. In 2008 [the appellant's first name] informed me that he had all arranged to go to New Zealand and so informed me that he was giving me a week's notice.*" The Tribunal satisfied itself that there was a clear conflict as to the central issue in the

case, which was whether the appellant had been made redundant or had resigned, and that issue could only be resolved by hearing evidence. The Tribunal therefore finds that the claims under the Redundancy Payments Acts, 1967 to 2007 and the Minimum Notice and Terms of Employment Acts, 1973 to 2005 fail as the appellant was not in a position to adduce sufficient evidence to show that the employment had not terminated otherwise than by resignation.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)