

EMPLOYMENT APPEALS TRIBUNAL

COMPLAINT OF:

CASE NO.

EMPLOYEE

I12/2009

against the decision of The Minister for Enterprise & Employment
in the case of :
EMPLOYER

under

PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) ACTS, 1984 TO 2004

I certify that the Tribunal
(Division of Tribunal)

Chairman: Dr. A. Courell B.L.

Members: Mr T. Gill

Mr M. McGarry

heard this complaint at Castlebar on 11th May 2010

Representation:

Complainant:

The complainant in person

Respondent:

XXXXXX Insolvency Payments Section, Davitt
House, 65a Adelaide Road, Dublin 2

The declaration of the Tribunal was as follows:-

Upon the liquidation of the Company on 21st November 2008 the complainant claimed arrears of holiday pay and payment in lieu of minimum notice from the Insolvency Fund.

Section 6 (6) of the Protection of Employees (Employers' Insolvency) Act, 1984, states that the Minister for Enterprise, Trade and Employment shall not make any payment under this section in respect of any debt until he has received a statement in the prescribed form from the relevant officer of the amount of that debt which appears to have been owed to the employee on the relevant date and which appears to remain unpaid.

On behalf of the Minister, the Department of Enterprise, Trade and Employment refused the claim of the complainant on the grounds that the liquidator of the company, from the company records, had not been able to certify the claims as correct on the requisite form.

The complainant lodged a complaint under section 9(1)(a) of the Protection of Employees (Employers' Insolvency) Acts, 1984 to 2001 in order to pursue her claim for arrears of holiday pay and payment in lieu of minimum notice.

Determination:

Having considered the submissions of the complainant the Tribunal is satisfied that the complainant is entitled to payments from the Insolvency Fund under the Protection of Employees (Employers' Insolvency) Acts, 1984 to 2001

It should be noted that payments made from the Social Insurance Fund are subject to maximum earnings of €600.00 per week. Accordingly the Tribunal awards the claimant €1,200.00 as payment in lieu of minimum notice and €2,250.00 as holiday pay due.

These awards are made subject to the complainant 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)

