

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE

-appellant

CASE NO.
RP520/2010
MN315/2010
WT149/2010

Against

EMPLOYER

-respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr K. Buckley

Members: Mr D. Hegarty
Mr J. Flavin

heard this appeal at Cork on 10th September 2010

Representation:

Appellant: Mr Jan Jaroslaw Potocki, Polish English Translation, "Pilawa", Office 19,
21-23 Oliver Plunkett Street, Cork

Respondent: In Person

Appellant's Case

The appellant worked for the respondent from the 13th of June 2007 until he was put on lay-off and issued with his P45 on the 9th of March 2009. The appellant re-commenced employment with the respondent on the 28th of April 2009, he worked until he was made redundant on the 21st of December 2009. After the lay-off period the appellant was informed by his friend that there was now work available for him with the respondent. The appellant signed a 4-week contract but continued to work after its expiry.

The appellant received notice that he was being made redundant in December 2009 and notice of his lay-off in March 2009

Respondent's Case

On the 9th of March 2009 the appellant was one of twelve employees made redundant due to the downturn in the construction industry. The respondent was awarded new contracts and as a result

re-engaged a roofer who recommended that the appellant also be re-employed effective from the 29th of April 2009. The appellant was engaged on a short-term contract but the work continued until December 2009. The appellant was notified that he was being made redundant in October 2009 but did not have enough service to qualify for a redundancy payment. The appellant would have been paid a redundancy payment in March 2009 if he had the required service.

Determination

The Tribunal find that the appellant's employment was not terminated on the 9th of March 2009, he was on lay-off. As the appellant returned to work on the 28th of April 2009 this lay-off does not equate to a break in service as per the Redundancy Payment Act 1967. Accordingly the Tribunal find that the appellant is entitled to a redundancy lump sum under the Redundancy Payments Acts 1967 to 2007 based on the following criteria;

Date of Birth	15 th September 1963
Employment commenced	13 th June 2007
Employment ended	21 st December 2009
Gross weekly pay	€650.00

It should be noted that a statutory weekly ceiling of €600.00 applies to payments from the Social Insurance Fund.

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

The Tribunal find that the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 is dismissed, as by the appellant's own evidence he received the required notice of his redundancy.

The appeal under the Organisation of Working Time Act 1997 is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)