

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE – *appellant*

CASE NO.
RP205/2010
MN144/2010

against

EMPLOYER – *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mrs M Quinlan

Members: Ms J Winters
Ms M Finnerty

heard this appeal at Dublin on 30th September 2010

Representation:

Appellant(s) : In person

Respondent(s) : In person

The decision of the Tribunal was as follows:

As the dismissal was in dispute the appellant gave evidence first.

Appellant's Case:

The appellant commenced her employment as a part-time cleaner, six hours per week, with the respondent company on December 4th 1995. The appellant gave evidence that on November 9th 2009 she was contacted by her supervisor. She was informed that the company had lost the cleaning contract that she worked on and that a new contractor was taking over. The supervisor told her that the new contractor would become her employer. She was told to go to her workplace that day to meet him. She met the new contractor with her supervisor. The contractor told her that there was no job for her and that there was no contract. He said that he did most of the cleaning himself.

Her supervisor told her to go to work the following day anyway. The appellant went to work and

was told to go home. She did not work after that.

The appellant's son gave evidence that in 2010 he phoned the manager of the company that contracted the cleaning services to find out if the new company had taken over the contract. The manager told him that they had decided not to give the contract to anyone.

Respondent's Case:

The appellant's supervisor gave evidence that when she was told that a new contractor was coming in she asked to meet them with the appellant as she considered that it was the appellant's job. She met the new contractor on Monday 9th November 2009 and he said that he had his own cleaners. She asked that the appellant be kept on but he refused. She told the appellant to go to work the following day. The appellant asked who would pay her and the supervisor told her that the new contractor would. The supervisor is still an employee of the respondent company.

A manager of the respondent company contended that as a new company had been awarded the cleaning contract a transfer of undertakings had occurred. He contended that the new contractor was obliged to take the appellant on as an employee. He contended that the appellant's employment had transferred to the new contractor on November 9th 2009. He did not dispute the details as submitted by the appellant on her form to the Tribunal.

Determination:

The Tribunal finds that no transfer of undertakings occurred and that the appellant is entitled to a redundancy lump sum payment based on the following information:

Date of Birth:	7 th November 1952
Date of Commencement:	4 th December 1995
Date of Termination:	21 st December 2009
Gross Weekly Pay:	€95.02

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

The Tribunal awards the appellant €570.12 (five hundred and seventy euro, twelve cent) in respect of six weeks' pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2005. The Tribunal has extended the date of termination to include the notice period.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)