

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE – *appellant*

CASE NO.
RP147/2010
MN 100/2010
WT 57/2010

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: Ms. O. Madden BL

Members: Mr. T. O'Grady
Ms. M. Mulcahy

heard this appeal at Dublin on 19th August 2010.

Representation:

Appellant: Ms. Moya de Paor of Northside Community Law Centre,
Northside Civic Centre, Bunratty Road, Coolock, Dublin 17

Respondent: In person

The decision of the Tribunal was as follows:-

Respondent's Case

The respondent gave evidence. On 17 July 2009 they broke for holidays. He informed the appellant that he was not sure when the next job would start. On 4 August the appellant returned to work. The respondent told him that the job had been deferred for 4 weeks. He gave the appellant a letter and his p.45 to facilitate claiming social welfare benefits. It was not his intention to terminate the appellant's employment. The respondent was not sure when the next job would start or how long it would continue.

On 24 August 2009 he was ready to start work. The respondent phoned the appellant a number of times but the appellant did not return to work. The appellant did not ask for a redundancy payment.

Appellant's Case

The appellant gave evidence. He worked as a general labourer. He was aware of the downturn and that work was scarce. When he got his p.45 he thought he had been laid off permanently. The respondent did ring him but he was very vague about the details of the next job. He could not say when the job would start or how long it would last.

The appellant asked the respondent for a redundancy payment but the respondent said that he did not have it. He made the request face to face sometime after receiving his p.45.

Determination:

The Tribunal carefully considered the evidence adduced. There is a conflict of evidence about what happened when the appellant returned from holidays. Some of the confusion could have been avoided if the respondent had informed the appellant of his temporary lay-off using form rp9. However the Tribunal finds that the appellant was on temporary lay-off and when he was asked to return to work he failed to do so. The Tribunal is satisfied that a redundancy situation did not exist and accordingly the appeal under the Redundancy Payments Acts, 1967 to 2007 fails. The appeals under the Minimum Notice and Terms of Employment Acts 1977 to 2007 and Organisation of Working Time Act 1997 also fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)