

## EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYEE  
MN95/2010

RP138/2010

against  
EMPLOYER  
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: Ms. K. T. O'Mahony B.L.  
Members: Mr. D. Hegarty  
Mr. J. Flavin

heard this appeal at Cork on 3rd September 2010

Representation:

Appellant:

The appellant in person

Respondent:

No appearance by or on behalf of the respondent

The decision of the Tribunal was as follows:-

There was no appearance by or on behalf of the respondent and the Tribunal were satisfied that the respondent was properly notified of the hearing.

#### **Appellant's case**

The appellant stated that she commenced employment with the respondent on 21<sup>st</sup> September 1998. Having had a baby in November 2004 the appellant returned to work on a part time basis from February 2005. The appellant became ill and was in receipt of illness benefit from the Department Of Social And Family Affairs from 7<sup>th</sup> July 2005 to 15<sup>th</sup> May 2006. According to the appellant the respondent said "it is in the best interest to leave but the job would be held open for me until fit to resume work". A copy of her P45 was submitted to the Tribunal. This P45 shows an issue date of 20<sup>th</sup> July 2005 and a cessation date of 1<sup>st</sup> July 2005. The appellant did not agree that this was a valid P45 as she was already out sick at that time.

The appellant stated that she returned to work when she was well enough to do so having arranged this by phone with the respondent. According to the appellant her employment continued until 18<sup>th</sup> February 2009 when she was let go without notice due to redundancy. A copy of form RP50 was submitted to the Tribunal. However the appellant claimed that she signed this form before it had been completed by the respondent and that she had done so because she was assured that she would

receive her proper redundancy lump sum. Furthermore the appellant stated that she has not received any payment in respect of redundancy from the respondent.

The appellant held that she was in continuous employment from 21<sup>st</sup> September 1998 to 18<sup>th</sup> February 2009 and stated that her gross pay at the date of redundancy was €327.00 per week.

The appellant stated that she was in receipt of maternity benefit from 20<sup>th</sup> September 2004 to 17<sup>th</sup> January 2005 and submitted a statement from Department Of Family And Social Affairs confirming dates of illness benefit as follows.

From 08/07/04 to 06/09/04

From 18/01/05 to 05/02/05

From 07/07/05 to 15/05/06

From 11/04/08 to 15/04/08

### **Determination**

Having considered the uncontested evidence of the appellant the Tribunal finds that she was in continuous employment from 21<sup>st</sup> September 1998 to 18<sup>th</sup> February 2009 and that her employment was terminated without notice due to redundancy. The Tribunal are satisfied that although a P45 issued on 20<sup>th</sup> July 2005 there was not a break in service and that the period from 7<sup>th</sup> July 2005 to 15<sup>th</sup> May 2006 was an absence from work due to illness. The Tribunal notes that the form RP50 was signed by the appellant before it was fully completed.

Therefore the Tribunal awards the appellant €1,962.00 under the Minimum Notice and Terms Of Employment Acts, 1973 to 2005. Furthermore the Tribunal awards the claimant a lump sum redundancy payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

DOB	21 <sup>st</sup> July 1977
Commencement Date	21 <sup>st</sup> September 1998
Date notice received	18 <sup>th</sup> February 2009
Termination date	18 <sup>th</sup> February 2009
Gross pay	€327.00

This award is made subject to the claimant having been in insurable employment, during the relevant period, in accordance with the Social Welfare Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_

(CHAIRMAN)

