

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.
PW190/2009

EMPLOYER *-appellant*

against the recommendation of the Rights Commissioner in the case of:

EMPLOYEE *-respondent*

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K. T. O'Mahony B.L.

Members: Ms M. Sweeney
Mr J. Flavin

heard this appeal at Cork on 25th August 2010

Representation:

Appellant: In Person

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

This case came before the Tribunal by way of an appeal by the employers against the recommendation of a Rights Commissioner Ref: r-069906-pw-08/POB. The employers were seeking to have the recommendation upset.

Determination

The appellant/employer accepted that payments to the respondent/employee were not in accordance with the terms of the Construction Industry Registered Employment Agreement. At some time during his employment the employee was aware of the employer's non-compliance with the Registered Employment Agreement.

Subsection (4) of section 6 of the Payment of Wages Act 1991 stipulates that, in the absence of exceptional circumstances, only complaints in respect of contraventions occurring within the six month period immediately preceding the presentation of the complaint to the rights commissioner (16th September 2008) can be entertained. The Tribunal finds that during that six-month period there were underpayments to the employee in respect of time worked as a grade C operative and a failure to pay him travel time. The Tribunal is satisfied from the evidence presented to it that the employee received his full holiday entitlement.

Having regard to the provisions of subsection (2) of the said section 6 the Tribunal determines that in the circumstances €3,280.00 is compensation of a reasonable amount for the underpayments in respect of time worked and the failure to pay travel time.

Accordingly, the Tribunal varies the Rights Commissioner decision r-069906-pw-08/POB and awards the employee €3,280.00 under the Payment of Wages Act 1991.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)