

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

EMPLOYEE

UD1025/2009

RP1168/2009

MN1037/2009

Against

EMPLOYER

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007  
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly Bl

Members: Mr. L. Tobin

Mr. J. Jordan

heard this claim at Wicklow on 8th April 2010

Representation:

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Claimant:

The claimant in person

Respondent:

Mr. Jim Stafford, Friel Stafford, Corporate Recovery, 44 Fitzwilliam Place, Dublin 2

The determination of the Tribunal was as follows:-

At the outset the claimant withdrew his claims under the Unfair Dismissals Acts, 1977 To 2007 and Redundancy Payments Acts, 1967 To 2007.

### **Respondent's case**

Due to a downturn in the economy there was a shortage of work available and the claimant was placed on temporary lay-off from 18/12/08. The claimant then applied for a redundancy lump sum payment on 12/02/09 and he was advised of his rights.

At the time of lay-off some work was being completed by other employees, who were of a different

grade to the claimant, but there was no work available for the claimant. The rest of the employees were made redundant in March '09 and the company went into liquidation on 06/07/09.

**Claimant's case**

The claimant agreed that he had been on temporary lay-off and had subsequently applied for a redundancy lump sum.

**Determination**

Having considered the evidence presented to it, the Tribunal is satisfied that the appellant requested his redundancy entitlements in the course of his lay off.

The legislation stipulates that in circumstances where an employee seeks redundancy entitlements whilst on lay off he cannot work out his minimum notice and therefore cannot be paid in lieu thereof.

Therefore the appeal under the Minimum Notice And Terms Of Employment Acts, 1973 To 2005 fails

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

