

**EMPLOYMENT APPEALS TRIBUNAL**

APPEALS OF:

CASE NO.

EMPLOYEE  
MN2041/2009

RP2487/2009

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. J. Killian  
Mr. J. Flavin

heard this appeal at Cork on 30th July 2010

Representation:

Appellant:

XXXXXXXXXXXX

Respondent:

The respondent in person

The decision of the Tribunal was as follows:-

**Respondent's case**

The respondent outlined details of a number of transfers of the business and the respondent had taken over the lease in March/April 2008. The business was closed for a period of three days at the start of the respondent's term in order to re-stock. P45s were issued to all staff by the previous proprietor and as far as the respondent was concerned all the staff had been made redundant. However the respondent continued to employ the appellant on the understanding that he was not liable for her previous service.

The respondent was having difficulty meeting the day-to-day running costs of the business and had to close down on 3<sup>rd</sup> August 2009 when the owner revoked the lease.

### **Appellant's case**

The appellant was employed at the same premises under the same terms and conditions of employment from 4<sup>th</sup> June 2003 to 3<sup>rd</sup> August 2009. Although there had been a number of transfers of the business the appellant had never been laid off or made redundant. Her employment was continuous and unbroken for the entire period.

### **Determination**

Having considered the evidence adduced the Tribunal is satisfied that there was a series of transfers of the undertaking that gave the appellant continuity of service from 4<sup>th</sup> June 2003 to 3<sup>rd</sup> August 2009 on which date her job became redundant due to the closure of the respondent's business. Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2007 succeeds and the Tribunal awards the claimant a lump sum redundancy payment under the Acts based on the following criteria:

DOB	7 <sup>th</sup> April 1960
Commencement Date	4 <sup>th</sup> June 2003
Date notice received	3 <sup>rd</sup> August 2009
Termination date	3 <sup>rd</sup> August 2009
Gross pay	€441.38 per week

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

The Tribunal awards the appellant €1,765.52, being the equivalent of four weeks' wages under the Minimum Notice And Terms Of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

