

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE - *appellant*

TE127/2009

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

EMPLOYER

EMPLOYER - *respondent*

under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms C. Egan B.L.

Members: Mr P. Pierson
Mr O. Nulty

heard this appeal at Longford on 19th May 2010

Representation:

Appellant(s) : Mr. Dara Hayden, Hayden & Co, Solicitors, Mardyke House,
The Bawn, Athlone, Co Westmeath

Respondent(s): Mr. Michael McNamee BL instructed by Mr. Aidan McGrath, Das Group, Das
Legal Expenses, 12 Duke Lane, Dublin 2

The decision of the Tribunal was as follows:-

This case came before the Tribunal by way of an employee appealing against the recommendation of a Rights Commissioner under the Terms of Employment (Information) Act 1994-2001 ref: r-068996-te-08/SR.

Appellant's Case

The appellant gave direct evidence that he commenced employment with the respondent on 27 November 2006 and his employment terminated in April 2008. During his tenure of employment he was never provided with terms and conditions of employment. He requested his terms and conditions of employment at the commencement of his employment. He attended an appraisal meeting in March 2007 where DD and CD represented the respondent. He again requested his terms and conditions of employment at that meeting and CD replied "we will get to that" following his request. He told the Tribunal that documentation was regularly placed in his pigeon-hole relating to work related issues. This pigeon-hole was located in a communal office. He checked his

pigeon hole on a regular basis throughout his working day. His contract of employment outlining his terms and conditions of employment was never placed in his pigeon-hole for him to collect and he never witnessed a contract of employment until it was produced at the Rights Commissioner hearing. He noted that this contract of employment was signed by DD but the signature was not dated and the acceptance paragraph for the appellant to sign was blank and not dated.

Respondent's Case

DD, witness for the respondent gave direct evidence that while he does not look after Human Resource issues he has responsibility for management contracts of employment. He told the Tribunal that he placed the contract of employment in the appellant's pigeon-hole on 12 January 2007. He stated that he did not check with the appellant to see if he (the appellant) had received the contract. He agreed that the contract of employment produced at the Rights Commissioner hearing was unsigned by the appellant. He confirmed that he was not in attendance at the appellant's appraisal meeting in March 2007.

Determination

Having carefully considered the evidence adduced, and the submissions and documentations from both parties, the Tribunal is not satisfied that the appellant was properly furnished with his contract of employment outlining his terms and conditions of employment. Accordingly, the Tribunal upsets the recommendation of the Rights Commissioner and awards the appellant the sum of €2692.00 under the Terms of Employment (Information) Act 1994 and 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

