

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:  
EMPLOYEE - appellant

CASE NO.  
RP2372/2009

against

EMPLOYER - respondent

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. N. Russell

Members: Mr. J. Hennessy  
Ms. S. Kelly

heard this appeal in Waterford on 20 July 2010

Representation:

\_\_\_\_\_

Appellant(s):

Mr. Alan Dillon, SIPTU, Connolly Hall, Summerhill, Waterford

Respondent(s):

No legal representation

The decision of the Tribunal was as follows:-

The appeal

The appellant, a labourer/banksman, sought a redundancy award based on having been employed by the respondent from June 2006 to 19 June 2009. He alleged that the respondent had ultimately only offered him four-and-a-half days in eight weeks and would not guarantee him thirteen weeks' full-time work. He asked for his redundancy money and was allegedly laughed at over the phone. He made every effort to phone the respondent on a daily basis to get full-time work. The respondent did not phone him once with an offer of work and only offered him the abovementioned four-and-a-half days in eight weeks when he asked for his redundancy payment four weeks after he was laid off. He had to ask for his P45 so that he "could get dole" and "claim back any tax refund" to which he was entitled.

The defence

It was disputed that the appellant was entitled to a redundancy lump sum. The Tribunal was referred to a letter from the respondent's operations manager (hereafter referred to as GD) dated 3 September 2009 posted to the appellant and explaining the end of his employment with the respondent.

The letter stated that the appellant had last worked on 19 June 2009 but that the appellant had been given at least three weeks' notice that he would be finished up on that assignment. The following week CB of the respondent company contacted the appellant and told him that it was a quiet week but that the respondent would get work for him shortly. As an agency, despite its best efforts, the respondent did not always have work for all of its employees all of the time. Sometimes there might be a short break between jobs. The appellant requested his P45 on 30 June and it was duly issued to him.

CB called the appellant with an offer of work on 7 July which the appellant subsequently refused. In early August AD (a trade union official) contacted GD to discuss the appellant's situation. GD told AD that the respondent could not guarantee long-term work on one assignment but would offer work on various sites. It was agreed that the appellant would contact CB on 12 August. CB then offered the appellant work in Waterford. The appellant again refused the work offered.

### **Determination:**

By consent of the parties the above respondent was named as the correct respondent for this case.

The Tribunal finds that, in seeking his P45 from his employer on 13 July 2009 the appellant made it clear to the respondent that he required this for the social welfare office and he did not resign from his employment on that date.

The Tribunal finds that the employee remained on lay-off after 13 July 2009.

The Tribunal accepts that the employee served a notice pursuant to Section 12 of the Redundancy Payments Act, 1967, on his employer on 13 August 2009 to which his employer responded by letter dated 3 September 2009. The employer did not give the appellant any counter-notice in writing pursuant to Section 13 (2) of the Redundancy Payments Act, 1967.

Accordingly, under the Redundancy Payments Acts, 1967 to 2007, the Tribunal finds that the appellant is entitled to a redundancy payment and an order to that effect is hereby made based on the following details:

Date of birth:	08 July 1965
Date of commencement:	15 June 2006
Date of termination:	19 June 2009
Gross weekly pay:	€724.37

It should be noted that payments from the social insurance fund are limited to a maximum of €600.00 per week.

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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