

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

RP2591/2009

Against

EMPLOYER

under

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:

No representation listed

Respondent:

No representation listed

The decision of the Tribunal was as follows:-

Respondent's case

The two directors of the respondent company had worked for Co. A Ltd., for around 10 years, until it was the subject of a court liquidation in or around August 1998. Co. A Ltd. had manufactured kitchens. The respondent then commenced a similar business operating from a different premises. The respondent employed the appellant and others who had worked for Co. A. The two directors had not been directors of Co. A. The respondent did not take over any contracts from Co. A.

Appellant's case

The appellant's case was that he commenced employment with Co. A Ltd. on 15th July 1996. Co. A changed its name on 23rd August 1998, and became known as the respondent. He continued to work for the company under its new name until 24th July 2009, on which date he was made redundant by the respondent. There was no gap in his employment at the time of the change in the company name. The respondent had paid him a redundancy lump sum based on a commencement date of 23rd August 1998 and he was now claiming a redundancy lump sum payment in respect of the earlier period of his employment

Determination

The Tribunal is satisfied that a new business was started by the respondent in or around 1998. There was no evidence of any transfer of business between Co. A and the respondent. Furthermore and in any event the European Communities (Protection of Employees on Transfer of Undertakings) Regulations, 2003 do not apply where a company is the subject of a court liquidation. The appellant was paid his full redundancy entitlement in respect of his employment with the respondent from 1998 to 24th July 2009. The appeal under the Redundancy Payments Acts, 1967 to 2007 in respect of the appellant's period of employment with Co. A fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

