

## EMPLOYMENT APPEALS TRIBUNAL

**APPEAL OF:**

EMPLOYEE

– *appellant*

**CASE NO.**

RP1655/2009

Against

EMPLOYEE

- *respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy, S C

Members: Mr J. Hennessy  
Mr A. Butler

heard this appeal at Abbeyleix on 1st April 2010

Representation:

\_\_\_\_\_

Appellant: In Person

Respondent: No appearance or representation

The decision of the Tribunal was as follows:-

#### **Determination**

Based on the uncontested evidence of the appellant the Tribunal finds that the appellant was dismissed by reason of redundancy and is entitled to a redundancy payment based on:

Date of Birth:	08 <sup>th</sup> March 1987
Date of Commencement:	23 <sup>rd</sup> May 2005
Date of Termination:	3 <sup>rd</sup> October 2008
Gross Pay:	€440
Amount of Redundancy:	€3405.60

This award is subject to the appellant having been in employment, which is insurable for all

purposes under the Social Welfare Consolidation Act 2005.

A ceiling of €600 per week applies to any payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

**CORRECTING ORDER**

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:

EMPLOYEE

– *appellant*

CASE NO.

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*EMPLOYER*

- *respondent*

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. D. MacCarthy S C

Members: Mr J. Hennessy  
Mr A. Butler

heard this appeal at Abbeylax on 14<sup>th</sup> July 2010

**Representation:**

Appellant: In Person

Respondent: In Person

**The decision of the Tribunal was as follows:**

This order corrects the original Order dated 13<sup>th</sup> May 2010 and should be read in conjunction with that Order.

**Background:**

The respondent had submitted that he was not on proper notice of the hearing on 1<sup>st</sup> April 2010 as the appellant's name was incorrect on a number of documents, which had issued from the Tribunal. This case was subsequently re-listed for hearing on 14<sup>th</sup> July 2010. Both parties were present at the hearing.

**Respondent's Case:**

It was the respondent's case that the appellant had excelled in his role as cabinetmaker. The appellant's employment had terminated by reason of redundancy on 3<sup>rd</sup> October 2008 but the appellant did not have the requisite 104 weeks continuous service to qualify for a redundancy payment, due to a break in the appellant's service in August 2008.

The respondent acknowledged that work had reduced during the year and by August 2008; there was a lack of work available to offer to the appellant. The appellant discussed with the respondent that he had some work offered to him by a friend for a period of three weeks and the respondent understood that the appellant was submitting his notice. The appellant signed a document stating he had received payment for holiday pay, wages and bank holidays up to and including the 25<sup>th</sup> August 2008. A time report document was opened to the Tribunal and listed the appellant as being on vacation for a number of dates in August 2008.

Subsequently, the appellant returned to employment with the respondent and was issued with a new contract, which stated that his employment commenced on 26<sup>th</sup> August 2008.

Appellant's Case:

The appellant stated that he did not recall any break in his contract of employment with the respondent and he strenuously denied that he had left the respondent's employment in August 2008, or indeed at any other time prior to being made redundant on 3<sup>rd</sup> October 2008. The appellant denied ever before having had sight of a contract of employment stating that he had commenced employment with the respondent on 26<sup>th</sup> August 2008.

He confirmed he had signed the document stating that he had received all relevant payments up to 25<sup>th</sup> August 2008 but he recalled that all employees were required to sign a document of that nature.

**Determination:**

The Tribunal noted that the time report document submitted by the respondent listed the appellant as being on vacation during a period in August 2008. The Tribunal is satisfied from the submissions of both parties that the period of three weeks in August 2008 should be treated as an authorised absence and finds that continuity of service is preserved. However, this time period must be treated as a period of non-reckonable service for the purposes of the Redundancy Payments Acts, 1967 to 2007. The appellant's redundancy payment should be calculated based on the following criteria:

Date of Birth:	08 <sup>th</sup> March 1987
Date of Commencement:	18 <sup>th</sup> April 2005
Period of Non-Reckonable Service:	2 <sup>nd</sup> August 2008 to 25 <sup>th</sup> August 2008
Date of Termination:	3 <sup>rd</sup> October 2008
Gross Pay:	€440
Amount of Redundancy Payment:	€3,493.60

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)