

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE - *appellant*

RP2341/2009

against

EMPLOYER - *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. Gilvarry

Members: Mr. D. Morrison
Mr T. Gill

heard this appeal at Castlebar on 3rd November 2010

Representation:

Appellant(s) : In Person

Respondent(s) : Ms Angela Grimshaw, Pennisula Business Services (Ireland)
Limited, Unit 3 Ground Floor, Block S, East Point Business
Park, Dublin 3

Summary of Evidence

The appellant was employed by the respondent since November 1995. The employment was uneventful until in or around 30 May 2008. The appellant did not receive his weekly wage which was due on that day. His wages were already one week in arrears at that stage. He was very disappointed not to receive his wages and felt very stressed about this. He contacted his employer about the non-payment of his wages but received no satisfactory explanation. He visited his doctor later that day and was certified as being unfit for work. He remained certified unfit for work until February 2009 and submitted medical certificates to his employer on a regular basis during this period. The appellant telephoned his employer on 12 February 2009 enquiring about returning to work. He was told that things were quiet and he would be contacted in a few weeks. The employer did not contact him after that. In or around 8 April 2009 he called to his employer and was given a letter which stated that there was no more work for him.

The respondent's position was that the appellant called to his office in or around 13 June 2008. The employer's son known as (DC) was also present on that occasion. The appellant was complaining about his wages and was seeking a pay rise. The employer told the Tribunal that he was not in a position to offer him a pay rise. The employer told the Tribunal that the appellant then stated that he could receive higher pay elsewhere. The employer told him that he did not want to lose him as an employee but he would not stand in his way if he wished to seek alternative employment. This evidence was corroborated by (DC). The appellant left the employers office after that conversation and never returned to work. The employer gave evidence that he printed off the appellant's P45 and left it with his secretary to send to the appellant. The employer gave further evidence that he received medical certificates from the appellant in two batches between September and November 2008 but took no action as the appellant had left his employment. He told the Tribunal that he had no recollection of any communication from the appellant until April 2009 when he came looking for a job again. He had no work available to offer the appellant at that stage.

(DC) also gave evidence that the meeting between his father and the appellant took place during the week after 30 May 2008, not on 13 June 2008, but otherwise corroborated his father's evidence. He also stated that he witnessed the appellant working on windows in a house in the vicinity in September or October 2008. This was denied by the appellant. (DC) confirmed that the payment of wages of employees including his own wages were not paid on time on 30 May 2008.

Determination

The Tribunal carefully considered all the evidence and submissions from both parties. The Tribunal is not satisfied that the appellant has proven that a genuine redundancy situation existed and therefore finds that the claim under the Redundancy Payments Acts 1967 to 2007 fails and is hereby dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

