

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE
-Appellant

CASE NO.

RP1627/2009

MN1434/2009

against
EMPLOYER
-Respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. MacCarthy S.C.

Members: Mr. J. Browne
Mr. A. Butler

heard this appeal at Wexford on 28th June 2010

Representation:

Appellant: In Person

Respondent: A director of the company

The decision of the Tribunal was as follows:

In or around the 15th December the appellant left Ireland to return to Poland for Christmas. It was the appellant's case that he informed the director of the company that he was taking the usual leave of two weeks' paid leave and two weeks' unpaid leave. The director of the company stated that he did not know when, or if, the appellant would be returning to Ireland.

The appellant subsequently attended at the respondent's yard in mid-January 2009. The director stated that he was surprised to see the appellant and he had to find work for the appellant to do. Levels of work had been decreasing in the preceding months. The appellant was placed on lay-off in February 2009. The director told the appellant that he would telephone him as soon as work became available. However, the appellant subsequently sought his P45 in order to claim social welfare benefits.

Determination:

The Tribunal is satisfied that a redundancy situation existed in relation to the termination of the appellant's employment and that his leave during December and January be treated as an authorised absence and continuity of service was preserved.

The authorised absence referred to above, being less than 13 weeks, is reckonable for the purposes of calculating the redundancy payment.

The Tribunal finds that the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Birth:	13 th December 1983
Date of Commencement:	17 th February 2007
Date of Termination:	27 th February 2009
Gross Weekly Pay:	€450.00
Amount of Redundancy Payments:	€2,277.00

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

The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, fails as the appellant requested his P45 while on lay-off.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)