

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:		CASE NOS.
EMPLOYEE	- appellant 1	RP637/2010
EMPLOYEE	- appellant 2	RP669/2010
Against		
EMPLOYER	- respondent	
under		

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. O'Connell B.L.

Members: Mr M. Noone
Mr T. Brady

heard these appeals at Dublin on 8th December 2010.

Representation:

Appellants: Mr. Blazej Nowak, Polish Consultancy Enterprise, 19 Talbot Street, Dublin 1

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

The decision of the Tribunal was as follows:-

Appellants' Case:

Appellant 1:

Appellant 1 gave evidence. He commenced employment on 20th April 2005. The respondent notified him of a temporary lay off and served him with an RP9 on 6th March 2009 and told him that if work became available he would contact him. He contacted the respondent in June 2009 and requested he furnish him with a letter so that he could claim social welfare benefit. He duly received this letter.

He contacted the respondent again around September/October 2009 seeking work. None was

available. He spoke to his manager in November 2009 and was offered work on a reduced salary, he would be paid in cash without tax being deducted and that he would have to work extra hours.

He declined the offer of that work and had no further contact with the respondent. He notified the respondent on RP9 of his intention to claim a redundancy lump sum payment in January 2010.

Appellant 2

Appellant 2 gave evidence. He commenced employment on 3rd May 2005. The respondent notified him of a temporary lay off and served him with an RP9 on 6th March 2009 and told him that if work became available he would contact him. He secured a period of three weeks work with the respondent in June 2009. He worked again for the respondent in August/September 2009 for five weeks only. He notified the respondent on RP9 of his intention to claim a redundancy lump sum payment in January 2010.

Respondent's Case:

Due to a downturn in the economy the respondent had to place all staff on temporary lay-off on 6th March 2009.

Work became available towards the end of 2009 and the owner of the respondent company DW offered appellant 1 full time work in October 2009 and appellant 2 full time work in September 2009. Both appellants were notified that there would be a reduction in their salary. Both appellants declined the offer of work in late 2009. However, the Tribunal is satisfied that the RP9 forms were sent by registered post. The appellants' assertions that they were offered work on a cash-only/tax-free basis were strongly denied.

Determination:

The Tribunal noted that there was a conflict of evidence between the parties and indeed the credibility of certain assertions were in doubt. Common case was that a period of at least thirteen weeks passed without any offer of resumed employment being made. There was a conflict of evidence on the issue of whether the RP9 forms were received. However, the Tribunal is satisfied that the RP9 forms were sent by registered post.

Accordingly, the Tribunal finds that both appellant 1 and appellant 2 are entitled to a redundancy payment based on the following criteria:

Appellant 1

Date of Birth:	20 th January 1975
Date of Commencement:	20 th April 2005
Date of Termination:	13 th January 2010
Gross Weekly Wage:	€620.00

Appellant 2

Date of Birth: 05th June 1966
Date of Commencement: 03rd May 2005
Date of Termination: 13th January 2010
Gross Weekly Wage: €500.00

It should be noted that a statutory weekly ceiling of €600.00 currently applies to payments from the Social Insurance Fund.

These awards are made subject to the appellants fulfilling current social welfare requirements in relation to PRSI contributions.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)