

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE
TE 105/2008

PW 145/2008

against the recommendation of the Rights Commissioner in the case of:

EMPLOYER

under

PAYMENT OF WAGES ACT, 1991 TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan
Members: Mr J. Hennessy
Ms S. Kelly

heard this appeal at Wexford on 15th September 2010

Representation:

Mr. Richard Grogan, Richard Grogan & Associates,
Solicitors, 16/17 College Green, Dublin 2

Respondent:

No appearance by or on behalf of the respondent

The decision of the Tribunal was as follows:-

This case came before the Tribunal by way of an employee appealing against the Decision of the Rights Commissioner ref: r-058037-te-07/MMG and r-058041-pw-07/MMG

There was no appearance by or on behalf of the respondent and the Tribunal was satisfied that they had been properly notified of the hearing.

Appellant's case

The appellant stated that he was employed by the respondent, as a Construction Operative, from 22nd February 2007 to 20th July 2007. During this time the appellant stated that he was paid €440.47 gross per week and held that he ought to have been paid at a higher rate of pay as per the Registered Employment Agreement applicable to the construction industry.

The appellant said that his working day was from 08:00 hrs to 17:00 hrs during which he had a 30 minute lunch break. On this basis he contested that he was due 3.5 hours overtime per full week of employment at the rate of time plus one half.

Furthermore the appellant stated that he had not received any holiday pay during the entire period of employment with the respondent.

The appellant also stated that he did not receive any notice of his terms and conditions of employment.

Determination

Having considered the uncontested evidence of the appellant the Tribunal is satisfied that he was entitled to be paid as per the Registered Employment Agreement for the construction industry and that he ought to have been paid at the rate applicable to Construction Operative Grade C. Furthermore the Tribunal finds that the appellant was entitled to be paid overtime at the appropriate rate and that he was due to be paid 8.3 days holiday pay. Therefore the Tribunal awards the appellant €5,156.56 under the Payment Of Wages Act, 1991.

The Tribunal also finds that the requirements under the Terms Of Employment (Information) Acts, 1994 to 2001 were not met by the respondent and awards €2,491.32 to the appellant.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

