

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYEE

RP2924/2009
MN2348/2009

against
EMPLOYER

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms B. Glynn
Members: Mr P. Pierson
Ms H. Murphy

heard this appeal at Roscommon on 3rd June 2010

Representation:

Appellants:

Anthony Barry & CO, Solicitors, Epworth Hall, Northgate Street, Athlone, Co Westmeath

Respondents:

The respondent in person

The decision of the Tribunal was as follows:-

Respondent's case

The respondent stated that he had employed the appellant for two separate periods of time. Firstly from 19th August 2005 to 17th August 2007 and secondly from 10th January 2008 to 12th June 2009. During the interim the appellant was employed by a sub contractor who was engaged by the respondent on the same site as the appellant had already been employed on.

The respondent held that there was a break in the appellant's service with him that there was no onus on him to pay a redundancy lump sum.

Appellant's case

The appellant stated that he had never been told that he was being made redundant on 17th August 2007 but had only been told that he would be paid from then on by the sub-contractor. He continued to work on the same site for the same rate of pay and was directed by the same foreman.

The appellant contested that he worked continuously for the respondent from 19th August 2005 to 12th June 2009 for the respondent.

Determination

The Tribunal having considered the evidence presented to it finds that the appellant was only paid one weeks notice whereby he ought to have been paid for two weeks. Therefore the Tribunal awards the appellant €407.27 under the Minimum Notice and Terms Of Employment Acts, 1973 to 2005.

The Tribunal is satisfied that a genuine redundancy situation arose on 17th August 2009 in accordance with the Redundancy Payments Act, 1967.

Furthermore the Tribunal is satisfied that there was a transfer of undertakings on 17th August 2007 from the respondent to another party and another transfer back again to the respondent on 10th January 2008. The Tribunal awards the claimant a lump sum redundancy payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

DOB	29 th May 1986
Commencement Date	19 th August 2005
Date notice received	8 th June 2009
Termination date	12 th June 2009
Gross pay	€407.27 per week.

This award is made subject to the claimant having been in insurable employment, during the relevant period, in accordance with the Social Welfare Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

