

## EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:		CASE NO.
EMPLOYEE	<i>-appellant 1</i>	RP114/2010
	WT43/2010	MN74/2010
		RP118/2010
EMPLOYEE	<i>-appellant 2</i>	MN77/2010
		WT44/2010
		RP119/2010
EMPLOYEE	<i>-appellant 3</i>	MN78/2010
		WT45/2010

Against

EMPLOYER

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr L. S. Ó Catháin

Members: Mr J. Browne  
Mr J. Flavin

heard this appeal at Tralee on 24th September 2010

#### Representation:

Appellants: Ms Lucy Collins, Solicitor, 55 O'Connell Street, Limerick

Respondent: Ms Marissa O'Keefe, Niall Murphy & Co, Solicitors, Joyce House, Office Campus,  
Ballincollig Town Centre, Ballincollig, Co Cork

#### Respondent's Case

The Project Manager for the Respondent gave evidence that he was informed that all of the

appellants were living in a house owned by the respondent, rent-free. There was an agreement in place that the appellants would live rent free in lieu of any claims under the Redundancy Payments Acts. The appellants were asked to pay rent for the final 4 months before their employment was terminated.

The Site Foreman gave evidence that the appellants had a verbal agreement with the respondent that they would live rent free in the house to offset any claim under the Redundancy Payments Acts. The appellants paid rent for the final few months before their employment terminated as the rent allowance had accumulated to exceed any redundancy entitlement.

### **Appellant's Case**

The appellant's did not have any agreement with the respondent to offset rent against their redundancy entitlement. Appellant 3 only lived in the house for a short time. The appellants received notice that their employment was being terminated. The appellants were not paid any holidays for 2009.

### **Determination**

The Tribunal is not satisfied by the evidence presented by both the respondent and the appellants.

The Tribunal find that the appeals under the Redundancy Payments Acts, 1967 to 2007 succeeds and awards the appellants a Redundancy Lump sum based on the following criteria:

#### **Appellant 1**

Date of birth	7 <sup>th</sup> March 1956
Date employment commenced	25 <sup>th</sup> April 2005
Date employment ceased	27 <sup>th</sup> March 2009
Gross weekly pay	€580.32

#### **Appellant 2**

Date of birth	1 <sup>st</sup> January 1963
Date employment commenced	25 <sup>th</sup> April 2005
Date employment ceased	27 <sup>th</sup> March 2009
Gross weekly pay	€580.32

#### **Appellant 3**

Date of birth	18 <sup>th</sup> June 1964
Date employment commenced	24 <sup>th</sup> October 2005
Date employment ceased	27 <sup>th</sup> March 2009
Gross weekly pay	€580.32

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

The Tribunal find that the appeals under the Minimum Notice and Terms of Employment Acts,

1973 to 2005 fails as the appellants received their statutory minimum notice entitlement.

The Tribunal finds that the appellants did not receive their holiday entitlement for 2009 and awards the appellants the sum of €580.32 being the equivalent to 5 days pay under the Organisation of Working Time Act 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)