

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE – *claimant*
UD1947/2009
RP2201/2009

CASE NO.

MN1839/2009

&
EMPLOYEE - *claimant*

UD1948/2009
MN1840/2009

against

EMPLOYER – *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
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: Ms O Madden BL

Members: Mr J Reid
Mr S O'Donnell

heard this claim at Dublin on 16th November 2010

Representation:

Claimant(s): Ms Aoife Marrinan
Richard Grogan & Associates, Solicitors, 16 & 17 College Green, Dublin 2

Respondent(s): No appearance or representation

The determination of the Tribunal was as follows:

There was no appearance or representation on behalf of the respondent on the day of hearing. The Tribunal is satisfied that the respondent was on notice of the hearing.

At the outset of the hearing the first named claimant withdrew his claim under the Unfair Dismissals Acts, 1977 to 2007 (ref: UD1947/2009). He gave evidence that he commenced his employment with the respondent company on February 12th 2007. He operated a teleporter, a crane and also did other jobs necessary. On the Tuesday or Wednesday of the week of June 8th 2009 the

foreman told him that it was his last week of work. He finished at the end of the week. He wastold that the project in Dublin was finishing and that there was no more work, but the claimantbelieved there was another site in Wicklow. Some employees stayed on after him in Dublin to finish the project. He received his last week's pay and his back pay. He was not paid a redundancypayment.

The second named claimant gave evidence that he was employed by the respondent company from August 2007 until 12th June 2009. He worked as a labourer. He contended that he was unfairly selected for redundancy as others remained on the site after him. The site was almost complete. Employees were being let go every week. He did not know if other labourers were transferred to the site in Wicklow. He was told on a Tuesday or a Wednesday of the week beginning Monday 8th June 2009 that his employment was being terminated.

Determination:

In regard to the first named claimant, based on his uncontested evidence, the Tribunal finds that a redundancy situation existed and that the claimant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following information:

Ref: RP2201/2009

Date of Birth:	17 th May 1974
Date of Commencement:	12 th February 2007
Date of Termination:	12 th June 2009
Weekly Gross Pay:	€750.00

This award is made subject to the claimant having been in insurable employment under the Social Welfare Acts during the relevant period. It should be noted that a statutory weekly ceiling of €600.00 applies to payments from the Social Insurance Fund.

The Tribunal awards the first named claimant (ref: MN1839/2009) €1,050 (one thousand and fifty euro) in respect of seven days outstanding notice under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

In regard to the second named claimant the Tribunal is of the opinion that a redundancy situation existed in this case and that the claimant did not show that the selection criteria were unfair in this case. Accordingly, the claim (ref: UD1948/2009) under the Unfair Dismissals Acts, 1977 to 2007, is dismissed. As the claimant had less than 104 weeks service with the respondent company he does not have an entitlement to a statutory redundancy payment.

The Tribunal awards the second named claimant (ref: MN1840/2009) €245.00 (two hundred and forty-five euro) in respect of two days outstanding notice under the Minimum Notice And TermsOf Employment Acts, 1973 To 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

(CHAIRMAN)