

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

EMPLOYEE - *appellant No1*

EMPLOYEE – *appellant No 2*

CASE NO.
MN493/2010

RP745/2010

MN496/2010

RP749/2010

against

EMPLOYER - *respondent*

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. M. Levey B.L.

Members: Mr M. Noone
Mr. P. Woods

heard this appeal at Dublin on 8th February 2011

Representation:

Appellant(s) : Ms. Barbara Mebtouche, Triana, Independent Advice &
Information Bureau, 13 Store Street, Dublin 1

Respondent(s) : Frank McDonagh & Co, Accountants, Shangort, Galway.

Summary of Evidence

The appellants were employed with the respondent company from 15 March 2007 until 8 October 2008. They were let go from their employment on 8 October 2008 and were given their P45s. They were told on 8 October 2008 that they were being laid off for an unspecified period of time. They were re-employed on 10 November 2008 and that employment terminated on 30 October 2009. Evidence was heard that the appellants returned to the same site on 10 November 2008 that they had previously worked on when they were let go on 8 October 2008. They remained working on

this site for approximately 8 months before moving to a different site.

The respondent's accountant told the Tribunal that RP50 forms were issued to the appellant's in error as the appellants did not have the requisite service to entitle them to a redundancy payment. It was the respondent's case that the appellants were dismissed on 8 October 2008 and issued with P45s. It was not a lay off situation. They were given notice of their dismissal by way of letter dated 24 September 2008 which was presented in evidence to the Tribunal. The appellants were re-employed on 10 November 2008 and their employment finally terminated on 30 October 2009.

Determination

The Tribunal carefully considered the evidence adduced. It does not appear to the Tribunal that there was any kind of subterfuge on behalf of the respondent in an effort to avoid its responsibilities under the Redundancy Payments Acts. There were certain inconsistencies and contradictions in the appellant's evidence. While the respondent did sign the RP50 forms the Tribunal is satisfied that this was a genuine error on the part of the respondent. The Tribunal is also satisfied that the appellants were given notice of their dismissal.

The claims under the Redundancy Payments Acts 1967 to 2007 and the Minimum Notice and Terms of Employment Acts 1973 to 2005 fail in respect of both appellants.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

