

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE *-appellant*

CASE NO.
RP176/2010

against

EMPLOYER *-respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr C. Corcoran B.L.

Members: Mr M. Murphy
Mr N. Dowling

heard this appeal at Navan on 7th January 2011

Representation:

Appellant: Mr. Neil Cosgrave, Cosgrave, Solicitors, Adare House, Timmons Hill,
Navan, Co. Meath

Respondent: Peninsula Business Services (Ireland) Limited, Unit 3, Ground Floor, Block S,
East Point Business Park, Dublin 3

Respondent's Case

The respondent is a Security Services Provider. The respondent's main contract is with one company (a large meat processors) providing security services for a number of their premises. The appellant was employed as a security guard for one of these premises approximately 15 minutes from his home.

The respondent's main contractor made numerous complaints against the appellant. The main contractor notified the respondent that if the appellant was not removed from the premises the contract would be terminated. The respondent informed the appellant of this and offered him the only alternative available of 24 hours work 45 minutes from home. The appellant informed the respondent he would think about this offer and revert with his answer. The respondent never heard from the appellant again. The respondent never received the RP9 notice of intention to claim redundancy form.

Appellant's Case

The appellant conceded the complaints made against him by the main contractor but was not aware that he was no longer allowed to work on the premises. As a result of a phone call on the 7th of September from the respondent the appellant was under the impression that the contract had been lost with the main contractor. The appellant was never offered any alternative employment. The appellant contacted the respondent 2-3 times a week looking for work but was never made any offers. The appellant served the RP9 notice of intention to claim redundancy form but did not receive a response from the respondent.

Determination

The Tribunal determines that a RP9 form was served on the respondent and that a valid counter notice was not given to the appellant. Section 12 of the Redundancy Payments Acts provides:

An employee shall not be entitled to redundancy payment by reason of having been laid off or kept on short-time unless—

- (a) he has been laid off or kept on short-time for four or more consecutive weeks or, within a period of thirteen weeks, for a series of six or more weeks of which not more than three were consecutive, and*
- (b) after the expiry of the relevant period of lay-off or short-time mentioned in paragraph (a) and not later than four weeks after the cessation of the lay-off or short-time, he gives to his employer notice (in this Part referred to as a notice of intention to claim) in writing of his intention to claim redundancy payment in respect of lay-off or short-time.*

Accordingly the Tribunal finds that the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

Date of Birth:	26 th March 1976
Employment commenced:	6 th January 2007
Employment ended:	7 th September 2009
Gross weekly pay:	€485.00

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

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)