

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE

-Appellant

CASE NO.
RP965/2010

against
EMPLOYER

-Respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. O'Connell B.L.

Members: Mr E. Handley
Mr J. Maher

heard this appeal at Dublin on 17th December 2010

Representation:

Appellant: SIPTU, Construction & Allied Trades Branch, Liberty Hall,
Dublin 1

Respondent: Mr Thomas Taylor, 22 Cypress Pk, Templeogue, Dublin 6w

The decision of the Tribunal was as follows:

The appellant was employed by the respondent as a labourer since 2005.

It was an agreed fact between the parties that the appellant was placed on temporary lay-off during 2009. The period of lay-off continued for some time and on the advice of his union the appellant submitted form RP9 to the respondent's Contracts Manager on 2nd June 2009.

Some three weeks later, the Contracts Manager offered the appellant further work, which the appellant accepted and this work commenced on 24th June 2009. However, it was the appellant's evidence that he was not provided with thirteen weeks' continuous work as stipulated by the Acts. He stated that he had received work for a period of eleven continuous weeks but there was a break in his employment during week commencing 13th September 2009. After this break the appellant received three days work the following week, then two days work the next week until the work decreased to one day per week. This continued until 22nd December 2009 when the company closed for seasonal holidays.

The appellant hoped to receive work in January 2010 and he contacted the Contracts Manager. The appellant was provided with two days work during January 2010. His last day of work was 22nd

January 2010. The appellant constantly sought further work from the respondent company during January and February. When further work failed to materialise; the appellant secured new employment in the following months. He was later offered further work with the respondent but due to having accepted new employment he was unavailable to undertake this work.

The Contracts Manager gave evidence that he was responsible for placing labourers on clients' sites depending on requirements. He confirmed the appellant had submitted an RP9 form to him during June 2009. When the appellant returned from lay-off, he was provided with work from 24th June 2009 until week commencing 13th September 2009, when there was a break of one week followed by offers of whatever work was available at that time.

Determination:

On the basis of the agreed evidence it is clear to the Tribunal that the employer did not provide the appellant with an unbroken period of 13 weeks' continuous work after the appellant returned from lay-off on 24th June 2009. Accordingly, the appellant is entitled to a redundancy payment under S.12(2)(b) of the Redundancy Payments Acts, 1967 to 2997, and based on the following criteria:

Date of Birth:	23 rd May 1973
Date of Commencement:	13 th August 2005
Date of Termination:	13 th September 2009
Gross Weekly Pay:	€1,150.00

It should be noted that payments from the social insurance fund are limited to a maximum of €600.00 per week.

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)