

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE – **appellant**

TE152/2010

for implementation of the recommendation of the Rights Commissioner  
in the case of:

EMPLOYER - **respondent**

and

EMPLOYER

under

### TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J Flanagan BL

Members: Mr F Cunneen  
Mr P Trehy

heard this appeal at Dublin on 7<sup>th</sup> March 2011

#### **Representation:**

Appellant: Ms Audrey Coen B.L. instructed by Ms. Sharon Gardner,  
C P Crowley & Co, Solicitors, Augustine House, Merchants Road, Galway.

Respondent: No appearance or representation on behalf of the respondent

The decision of the Tribunal was as follows: -

#### **Determination:**

This matter came before the Tribunal by way of a notice of claim for implementation of a recommendation of a Rights Commissioner r-080538-te-09/JC.

There was no appearance by or on behalf of the respondent company and the Tribunal is satisfied

that the respondent had been properly put on notice of the hearing. Counsel for the appellant advised the Tribunal that the respondent was currently in liquidation. A liquidator had been appointed on 12<sup>th</sup> August 2010. The recommendation of the Rights Commissioner had been made On 19<sup>th</sup> November 2009. A Form T1D had been served by way of registered post on or about 9<sup>th</sup> February 2011 on the registered address of the respondent and was returned marked not called for.

Section 8 (6) (a) of the Terms Of Employment (Information) Act, 1994 and 2001 provides that:

*Where a recommendation of a rights commissioner in relation to a complaint under this Act has not been carried out by the employer concerned in accordance with its terms, the time for bringing an appeal against the recommendation has expired and no such appeal has been brought, the employee concerned may bring the complaint before the Tribunal and the Tribunal shall, without hearing the employer concerned or any evidence (other than in relation to the matters aforesaid), make a determination to the like effect as the recommendation.*

It having been established that the employer has failed to appeal or implement the said recommendations the Tribunal makes a determination of an award of €2000.00 to the appellant to the like effect of the recommendations of the Rights Commissioner under the Terms of Employment (Information) Acts, 1994 and 2001.

The gross weekly pay of the appellant was €731-85

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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