

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

RP2857/09

- appellant

Against

EMPLOYER

- respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. MacCarthy SC

Members: Mr. J. Horan
Mr. F. Barry

heard this appeal at Naas on 4th February 2011.

Representation:

Appellant: Ms Violet Behan, Behan Barry, Solicitors, Claregate Street, Kildare

Respondent: In person

The decision of the Tribunal was as follows:-

Determination:

The appellant was an apprentice who was on block release on a FAS course from 30th January 2009. He was told by his supervisor that there would be no work for him when his block release ended.

The appellant said he was being let go because of the economic downturn. The respondent's witness did not agree with this, but did not disagree that such a reference might have been made. It was the respondent's case that the appellant was dismissed because his performance was unsatisfactory, both in the workplace and at the FAS apprenticeship programme.

The Tribunal notes out of a total of five apprentices two others were also let go about the same time as the appellant, and that the previous month a qualified fitter was made redundant. The respondent's witness agreed that the economic downturn was a factor in the decision to dismiss the

appellant, but not the main factor.

It seems to the Tribunal unfortunate that the dismissal was not put in writing, when it would be clear to all what was the main reason.

Section 7(2) of the Redundancy Payment Act, 1967 (as amended) provides that a person who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly for redundancy as defined. One of those definitions arises where an employer decided to conduct business with fewer employees.

Having heard both parties, the Tribunal, on balance, finds the main reason for the dismissal of the appellant and possibly all other employees involved was for redundancy.

The Tribunal finds that the appellant is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria:

Date of Birth:	27 th April 1987
Date of Commencement:	19 th June 2006
Date of Termination:	30 th January 2009
Non reckonable service:	None
Gross Weekly Wage:	€445.00
Redundancy calculation:	€2776.80

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)