

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE – *appellant*

CASE NO.
RP1046/2010

against

EMPLOYER – *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms F Crawford BL

Members: Mr T O'Sullivan
Mr G Whyte

heard this appeal at Dublin on 12th January 2011

Representation:

Appellant(s) : In person

Respondent(s) : In person

The decision of the Tribunal was as follows:

As the appeal was contested the appellant gave evidence first.

Appellant's Case:

The appellant gave evidence that on March 1st 2005 he began working for a magazine as a graphic designer. The magazine was run by a company until February 2008 when one of the Directors, the respondent, took over the running of the magazine as a sole trader. The appellant continued to work as normal.

In March 2009 the appellant took a career break to go travelling. Before leaving he designed three magazines to keep the magazine going in his absence. He was paid €600.00 while he was away. The respondent informed him that there might not be a job for him when he returned. He trained another employee before he left, but not as his replacement. He later asked the respondent for a redundancy payment, but the respondent said he wasn't entitled to a payment. The appellant had not received a P45 by the time of the hearing. He did not receive payslips or P60s

during his employment.

Respondent's Case:

The respondent gave evidence that he believed that the appellant intended to leave the employment and he had not guaranteed that he would hold the job open for him. The appellant did not give a return date. The appellant trained in someone else to do his job, but the respondent could not continue to publish the magazine. He didn't know if his accountant had issued a P45 to the appellant when he left. He told the employees of the transfer of ownership in January 2008. There was no break in their service.

Determination:

Based on the evidence adduced the Tribunal is satisfied that the appellant expected to return to work on his return from travelling and this was evidenced by the absence of a P45. Accordingly, the Tribunal finds that a redundancy situation existed and that the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following information:

Date of Birth:	15 th February 1983
Date of Commencement:	1 st March 2005
Date of Termination:	20 th April 2009
Weekly Gross Pay:	€450.00

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)