

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
EMPLOYEE

CASE NO.  
RP687/2006

*- first named appellant*

EMPLOYEE

RP689/2006

*- second named appellant*

against

EMPLOYER

*- respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr M. Gilvarry

Members: Mr. D. Morrison  
Ms. R. Kerrigan

heard this appeal at Donegal on 23rd March 2010  
and 24th March 2010

#### Representation:

Appellant(s) : In Person

Respondent(s) : Mr. James O'Donnell BL instructed by:  
Ms. Cathleen Dolan, Cathleen Dolan, Solicitors, Main Street, Donegal Town,  
Donegal

The decision of the Tribunal was as follows:-

#### First Named Appellant

He commenced employment with the respondent in October 1995. In 2005 he went to the Citizens Information Centre and was advised to lodge an RP9 form. He worked for the respondent in November and December 2006 and in January and February 2007. He stated that he felt he was entitled to a redundancy payment as he was no longer given any work.

#### Second Named Appellant

As there was no appearance by the above named appellant on the date allocated for hearing his appeal under the Redundancy Payments Acts, 1967 to 2007 is dismissed.

#### Determination:

A division of the Tribunal previously heard a case against the same respondent, where the facts were similar to this case. In that instance the Tribunal found, by way of a majority decision, that a redundancy situation had occurred and awarded the appellant a redundancy lump sum. The respondent appealed this decision to the High Court on a point of law.

The High Court found that the Tribunal had erred in Law in their decision and overturned the Tribunal's decision stating that there was no redundancy situation, based on similar facts. Counsel for the respondent confirmed that while the High Court appeal was not contested by the employee, the case was fully opened to the Court and considered, and the Court, accepting the findings of fact made, determined that the Tribunal had erred in law by granting redundancy based on those facts.

The Tribunal is mindful of this High Court decision and is bound by it.

Accordingly the appeal under the Redundancy Payments Acts, 1967 to 2007 fail.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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

