

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYER - appellant

CASE NO.
PW22/2010

against the recommendation of the Rights Commissioner in the case of:
EMPLOYEE - respondent

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Hayes BL

Members: Mr. F. Moloney
Mr. S. O'Donnell

heard this appeal in Navan on 12 January 2011

Representation:

Appellant(s):

Mr. Michael Shanley, Oliver Shanley & Co., Solicitors,
62/63 Academy Street, Navan, Co. Meath

Respondent(s):

Mr. Paul Stack, P & G Stack, Solicitors,
Main Street, Maynooth, Co. Kildare

The decision of the Tribunal was as follows:-

This case under the Payment of Wages Act, 1991, came to the Tribunal as an employer's appeal against Rights Commissioner Decision r-077920-pw-09/JW that the respondent employee be paid the sum of €20,965.22 in compensation under the said legislation.

At the Tribunal hearing of this appeal the respondent's representative stated that the appellant company had not given a copy of the notice of appeal of Rights Commissioner Decision r-077920-pw-09/JW to the respondent within six weeks of the said decision being given as required by S.7 (2)(b) of the Payment of Wages Act, 1991.

The appellant company's representative did not argue that the company had complied with S.7 (2)(b) of the Payment of Wages Act, 1991, but submitted that there was no prejudice to the respondent. He relied on the Tribunal's discretion.

Determination:

Regarding appeals from decisions of rights commissioners, Section 7 (2) of the Payment of Wages Act, 1991, provides:

“An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the decision to which it relates was communicated to him-

- (a) a notice in writing to the Tribunal containing such particulars (if any) as may be specified in regulations under subsection (3) and stating the intention of the party concerned to appeal against the decision, and
- (b) a copy of the notice to the other party concerned.”

Given that Section 7 (2) (b) is a mandatory legislative provision, the Employment Appeals Tribunal has no discretion to disregard it. The appeal under the Payment of Wages Act, 1991, against Rights Commissioner Decision r-077920-pw-09/JW (that the respondent employee be paid the sum of €20,965.22 in compensation under the said legislation) fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)