

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE

CASE NO.
MN128/2010
RP177/2010

WT73/2010

against

EMPLOYER

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan,

Members: Mr. J. Flanagan
Ms. N. Greene

heard this appeal in Navan on 15th March 2011

Representation:

Appellant : James Murphy
Murphy Coady & Company, Solicitors, Commons Road, Navan,
Co. Meath

Respondent(s): Company representatives

Determination

The appellant was employed from May 2004 as a driver/installer on a full-time basis. The employment was uneventful until April 2009 when work became sporadic and the appellant was placed on reduced hours such that he was on a two or three day week.

The respondent's position was that full-time work was available for the appellant from around mid-July 2009 and to that end a replacement for the appellant was hired at a reduced rate of pay

The appellant's position was that he was left in an untenable situation with plenty of work for two or three weeks at a time followed by periods of the odd day's work here and there communicated to

him in phone calls.

The claim under the Organisation of Working Time Act was withdrawn.

The Tribunal is satisfied that the appellant was entitled to claim redundancy on the basis that in the period of thirteen weeks before the end of the employment he was on statutory short-time working for in excess of six of those thirteen weeks and as provided in Section 12 of the Redundancy Payments Acts this triggered a claim for redundancy. Accordingly the Tribunal awards a redundancy lump sum payment under the Redundancy Payments Acts 1967 to 2007 based on the following criteria

Date of birth :	27 April 1966
Date of commencement of employment:	15 May 2004
Date of termination of employment:	7 July 2009
Gross weekly pay:	€708-00

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period. It should be noted that payments from the social insurance fund are limited to a maximum of €600-00 per week

This being a case where the appellant has claimed a lump sum payment under the Redundancy Payments Acts as a result of lay-off or short-time a claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 does not arise.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

