

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE *-appellant*
Against

CASE NO.
RP2280/2009

EMPLOYER *-respondent 1*

EMPLOYER *-respondent 2*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms M. McAveety
Members: Mr M. Carr
Mr O. Nulty

heard this appeal at Cavan on 24th January 2011

Representation:

Appellant: In Person

Respondent: No appearance or representation on behalf of respondent 1
In person – respondent 2

Appellant's Case

The appellant commenced employment with respondent 1 on the 15th of June 2006. In March 2009 the appellant's foreman approached him and informed him that his job was finished on Friday as there was no further work available. At that stage all the other staff had been let go and it was only the foreman and the appellant still working.

Without the appellants knowledge his employment had been transferred to respondent 2 when respondent 1 ceased trading in September 2008. The owner of respondent 2 is the father of the owner of respondent 1 and consequently a lot of work had been carried out by both respondents together. It was not unusual for the appellant to be working with respondent 2 and his work carried on as normal throughout his employment. The only P45 the appellant received was from respondent 2.

Respondent's Case

In September 2008 respondent 1 ceased trading and all the staff were let go. Respondent 2 took the appellant on for a few weeks but failed to inform him that he was now his employer. Respondent 2 did not take on any of respondent 1's business or any of the contracts. The appellant was employed by respondent 2 on a new employee basis and not transferred from Respondent 1.

Determination

The Tribunal find that the appellant's employment did not transfer from respondent 1 to respondent 2. The Tribunal find that the appellant's employment was terminated by way of redundancy when respondent 1 ceased trading in September 2008, therefore Respondent 1 made the appellant redundant.

The Tribunal find that the appeal under the Redundancy Payments Acts, 1967 to 2007 succeeds and awards the appellant a redundancy lump sum based on the following criteria:

Date of Birth:	25 th September 1979
Date of Commencement:	15 th June 2006
Date of Termination:	8 th September 2008
Gross Weekly Pay:	€540.00

This award is made subject to the appellant having been in insurable employment during the period.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)