

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
EMPLOYEE – *appellant*

CASE NO.  
RP1172/2010

against  
EMPLOYER – *respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms N O'Carroll-Kelly BL

Members: Mr J Flanagan  
Mr A Butler

heard this appeal at Dublin on 26th January 2011

Representation:

\_\_\_\_\_

Appellant(s): In person

Respondent(s): Mr Stuart Gilhooley  
H J Ward & Company, Solicitors  
5 Greenmount House, Harold's Cross, Dublin 6w

The decision of the Tribunal was as follows:-

#### **Respondent's Case:**

The managing director (MD) of the respondent company disputed that a redundancy situation existed in regard to the appellant's position. The appellant was employed as a labourer for 4½ years. In January 2010 he could only give the appellant two or three days work per week. The appellant asked for a letter which the MD believed was for social welfare purposes. The letter, dated February 24<sup>th</sup> 2010, stated that there was no further work for the appellant at that time. He did not understand that the appellant was ceasing his employment. He had intended for the appellant to continue working. He offered the appellant work, but he wasn't interested. The appellant asked for his P45 and he gave it to him. He intended to offer him further work.

During cross-examination the witness stated that he could not guarantee that he could have offered the appellant two or three days per week. He could not foresee the work environment more than a

few weeks in advance.

**Appellant's Case:**

The appellant gave evidence that he went home to Poland for Christmas in December 2009. He rang the MD from Poland to find out about work after Christmas. The MD said there was no work and that he would phone the appellant when there was. The appellant waited in Poland for the month of January. He then returned as he had bills to pay in Ireland. He worked for a few days in February, but he was not offered work every week. He asked the MD for redundancy but the MD said he could give him three days a week. The appellant worked for 1½ weeks but then it stopped again. He asked the MD for a notice and a letter for Social Welfare. He asked for his P45 as he needed it for social welfare. The date of termination on the P45 was February 9<sup>th</sup> 2010.

**Determination:**

Based on the evidence adduced the Tribunal finds that a redundancy situation existed in regard to the appellant's position. Accordingly, he is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following information:

Date of Birth:	25 <sup>th</sup> May 1981
Date of Commencement:	13 <sup>th</sup> March 2006
Date of Termination:	9 <sup>th</sup> February 2010
Weekly Gross Pay:	€750.00

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 a statutory weekly ceiling of €600.00 applies to payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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