

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYEE –**Appellant**

RP1968/2010
MN1397/2010

against

EMPLOYER –**Respondent**

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. MacCarthy S.C.

Members: Mr. N. Ormond
Mr. G. Whyte

heard these appeals at Dublin on 19 April 2011

Representation:

Appellant:

XXXXXXXX

Respondent:

Director of the respondent

The determination of the Tribunal was as follows:

Determination:

The appellant was employed by a stationery provider (the provider) from November 2005. On or around 3 November 2008 the provider entered into an agreement with the respondent whereby the provider began to work for the respondent on a self-employed basis and two employees of the provider, one of those being the appellant, became employees of the respondent on the same terms and conditions as with the provider. The respondent whilst not purchasing the business of the provider did acquire much of the customer base and good will of the provider.

From 23 January 2010 the appellant was laid off due to a down turn in business. The respondent accepts that the appellant's employment ended because of redundancy, the appellant having not been replaced, and the appellant left the employment on 5 February 2010. The respondent's contention was that there was no continuity of employment when the appellant left the provider and

came to work for the respondent such that the appellant did not have the required 208 weeks of continuous employment in order to qualify for a redundancy lump sum payment.

The Tribunal finds that, having considered paragraph 6 of Schedule 3 of the Redundancy Payments Acts; there was continuity of employment when the appellant came to work for the respondent after leaving the provider. Accordingly, the Tribunal is satisfied that the appellant is entitled to a lump sum payment of €4,513-01 under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria

Date of Birth	5 April 1983
Employment commenced	29 November 2005
Employment ended	5 February 2010
Gross weekly pay	€485-27

There was a period of non-reckonable service by reason of lay-off from 23 January 2010 until 5 February 2010. This award is made subject to the appellant having been in insurable employment under the Social Welfare Consolidation Act, 2005 during the relevant period.

The appellant having sought a redundancy payment by reason of lay-off 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)