

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE – *claimant*

CASE NO.
MN59/2010

against
EMPLOYER – *respondent*

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr T Taaffe

Members: Mr M Murphy
Mr O Nulty

heard this claim at Drogheda on 15th April 2011

Representation:

Claimants(s): In person

Respondent(s): Mr Tony Donagher
John C Kieran & Sons Limited, Ardee, Co Louth

The decision of the Tribunal was as follows:-

Claimant's Case:

The claimant gave evidence that he accepted an offer of voluntary redundancy on September 2nd 2009. The terms were two weeks' statutory plus an extra two weeks per year of service. He received a letter, dated September 9th 2009 from the company indicating that he was entitled to four weeks' notice. The company had been operating a week on week off schedule since February 2009 and offered the claimant to work his notice on the same basis to conclude on October 9th 2009 or he could accept 10 days' pay in lieu of notice and sign an RP6 form. The claimant was sick at the time. He phoned his employer and told him that he was entitled to four weeks' notice. His employer said that it was two weeks, that it was a grey area and he couldn't explain it.

The claimant signed the RP6 form on September 15th 2009 indicating that he intended to leave on September 16th 2009. He contended that he was forced to sign this form or else he would not receive his redundancy payment.

Respondent's Case:

The Operations Manager of the respondent company gave evidence that he sought advice in regard to the notice period. He understood that as the company was working a 'week on week off' work pattern he should offer the claimant work for two of the four weeks or pay in lieu. Employees claimed social welfare payments for the weeks they did not work. The claimant came to the office and again asked about the four weeks' notice. He signed the RP6 form. The witness agreed that he said that he would hold all matters while they resolved the notice issue.

Determination:

The Tribunal carefully considered the documentation submitted by the parties, the evidence given and the submissions made.

The Tribunal is satisfied that the claimant agreed to accept a suggested option by his employers to address the question of the payment of his minimum notice and that his claim therefore fails and the Tribunal so determines.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)