

## EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYEE

RP1532/2010  
MN1083/2010

against  
EMPLOYER  
under

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

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Dr. A. Courell B.L.  
Members: Mr. P. Pierson  
Ms. H. Henry

heard this appeal at Roscommon on 21st March 2011

Representation:

Appellant:XXXXXXXX

Respondent:  
The respondent in person

It was common case that the appellant commenced employment on 12<sup>th</sup> November 2004 and that his employment terminated on 23<sup>rd</sup> October 2009. His gross pay was €563.55 per week. However the respondent denied that the appellant had been made redundant and stated that he had left of his own volition.

The appellant stated that he had been put on short time working and claimed job seekers benefit from 17<sup>th</sup> April 2009 and that this arrangement continued until October 2009. However the appellant expected to work on 28<sup>th</sup> October 2009 but the respondent did not show up to collect him at his house. The appellant produced phone records to the Tribunal to show that he had phoned and sent text to the respondent on that date. According to the appellant the respondent phoned the appellant on 4<sup>th</sup> November 2009 and told him that there was no work available and the appellant then asked for redundancy. The appellant stated the respondent agreed that he would complete the relevant forms but that he was not in a position to pay and the appellant would have to claim through the Social Insurance Fund.

However it was the respondent's contention that he and the appellant had an argument about holiday pay and that the appellant had left because of this. According to the respondent there was still enough work to have the appellant employed. The respondent stated that he had not replaced

the appellant immediately but that he now had his own brother working with him on a contract basis

**Determination**

There was a clear contradiction in evidence by the parties. However on the balance of probabilities the Tribunal finds that a genuine redundancy situation existed and the appellant was made redundant.

Therefore the Tribunal awards the appellant €1,127.10 under the Minimum Notice And Terms Of Employment Acts, 1973 to 2005 and a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

DOB	26 <sup>th</sup> February 1975
Commencement Date	12 <sup>th</sup> November 2004
Date notice received	N/A
Termination date	23 <sup>rd</sup> October 2009
Gross pay	€563.55

This award is made subject to the claimant having been in insurable employment, during the relevant period, in accordance with the Social Welfare Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

