

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYER – *Appellant*

PW21/2010

EMPLOYER – *Appellant*

against the recommendation of the Rights Commissioner in the case of:

EMPLOYEE – *Respondent*

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. P. McGrath

Members: Mr. C. Lucey
Mr. J. Jordan

heard this appeal in Naas on 4th April 2011

Representation:

Appellant: Brendan Weldon & Co, Solicitors, Meadow Brook House, Moone,
Co Kildare

Respondent: Mr. Andrew Cody, Reidy Stafford, Solicitors, 1-3 Moorefield
Terrace, Newbridge, Co Kildare

The decision of the Tribunal was as follows:-

This case under the Payment of Wages Act, 1991, came to the Tribunal as an employer's appeal against Rights Commissioner Decision r-081151-pw-09/JW, that the respondent employee be paid the sum of €2889.00 in compensation under the said legislation.

At the Tribunal hearing of this appeal the respondents representative stated that the appellant company had not given a copy of the notice of appeal of Rights Commissioner Decision r-081151-pw-09/JW, to the respondent within six weeks of the said decision being given as

required by S.7 (2)(b) of the Payment of Wages Act, 1991.

The appellant company's representative did not provide evidence that the company had complied with S.7 (2)(b) of the Payment of Wages Act, 1991.

Determination:

Regarding appeals from decisions of rights commissioners, Section 7 (2) of the Payment of Wages Act, 1991, provides:

“An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the decision to which it relates was communicated to him-

- (a) a notice in writing to the Tribunal containing such particulars (if any) as may be specified in regulations under subsection (3) and stating the intention of the party concerned to appeal against the decision, and
- (b) a copy of the notice to the other party concerned.”

Given that Section 7 (2) (b) is a mandatory legislative provision, the Employment Appeals Tribunal has no discretion to disregard it. The appeal under the Payment of Wages Act, 1991, against Rights Commissioner Decision r-081151-pw-09/JW fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)