

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
EMPLOYEE  
- *appellant*

CASE NO.  
MN672/2010

RP972/2010  
WT306/2010

against

EMPLOYER - *respondent*

under

### MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 ORGANISATION OF WORKING TIME ACT, 1997 REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr P. Hurley

Members: Mr P. Pierson  
Ms H. Henry

heard this appeal at Athlone on 7th June 2011

Representation:

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Appellant(s) : Mr. Tom Rogers, John J Quinn & Co, Solicitors, Earl  
Street, Longford

Respondent(s) : No appearance by or on behalf of respondent

#### **Preliminary Point**

The claims under the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Organisation of Working Time Act, 1997 were withdrawn by the appellant's representative during the course of the hearing.

#### **Determination**

The Tribunal heard evidence from the appellant that he worked for the respondent for 8 years. He was laid off work by the respondent on 13 November 2009. The respondent then contacted the appellant by telephone in December 2009 stating that he had work available for him. The appellant did not return to work as he had an issue with the respondent over unpaid wages. The respondent then wrote to the appellant in January 2010 advising him that his employment was to be terminated

as he had not recommenced his duties with the respondent. The Tribunal heard further evidence from the appellant that, to the best of his knowledge the respondent has continued in operation and the position of driver in which the appellant had been employed has not been discontinued.

The Tribunal finds that no evidence of redundancy of function has been offered to the Tribunal. The appellant has not met the requisite standard of proof to establish a redundancy claim and accordingly the claim under the Redundancy Payments Acts 1967 to 2007 fails.

Sealed with the Seal of the  
Employment Appeals Tribunal

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

