

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
EMPLOYEE

CASE NO.  
RP2817/2009

against  
EMPLOYER  
under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms P. McGrath BL  
Members: Mr J. Horan  
Mr N. Dowling

heard this appeal at Naas on 15th February 2011

#### Representation:

Appellant: Mr. Matthew Byrne solicitor,  
31 main street Newbridge Co. Kildare

Respondent: In person

#### **Determination:**

The Tribunal has carefully considered the evidence adduced. The claimant worked as an apprentice with the respondent and earned €320.00 per week gross. The claimant had commenced in March 2007.

A downturn in business occurred and by March 2009 the employer had intended to lay-off the claimant in the hope of there being more work in due course. The employer did issue a p45 at this time though he did not expressly mean to make the claimant redundant.

As it happened, more work did become available and the claimant was taken back albeit on a short-term basis and on a reduced salary. The claimant was also claiming Social Welfare and it is not clear to the Tribunal if the Department of Social and Family Affairs was aware of the fact that the claimant was being paid a day or two or more of work for each week.

A disagreement arose in September 2009. With the result that after 23 weeks of short time employment the claimant opted not to return to work at all. As a consequence the employer took on another employee to replace the claimant so this is not a situation where the position was made redundant.

However, as the claimant was effectively on short time when he walked away from his employment he was entitled to consider himself made redundant and qualifies for redundancy under the relevant legislation.

Under the Redundancy Payments Acts, 1967 to 2007, the Tribunal finds that the appellant is entitled to a redundancy lump sum based on the following details:

Date of birth:	07 <sup>th</sup> May 1985
Date of commencement:	05 <sup>th</sup> March 2007
Date of termination:	12 <sup>th</sup> March 2009
Gross weekly pay:	€320.00

It should be noted that payments from the Social Insurance Fund are limited to a maximum of €600.00 per week.

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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