

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
EMPLOYEE

CASE NO.  
*-appellant* RP2004/2009

against  
EMPLOYER

*-respondent*

Under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms K. T. O'Mahony B.L.  
Members: Mr. G. Andrews  
Ms S. Kelly

heard this appeal at Limerick on 26 November 2010

#### **Representation:**

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Appellant: Mr Charles Prizeman, T.E.E.U., 5 Cavendish Row, Dublin 1  
Respondent: Michael D. Murray & Co, Solicitors, 86 O'Connell Street, Limerick

#### **Summary of the Evidence**

The respondent company supplies and installs processing systems for the food, beverage and pharmaceutical industries. It was common case that By March 2009 business was quiet and a contract had been delayed making it necessary to put 10 staff, including the appellant, on lay-off on 13 March 2009. Prior notice of the lay-off had been given to the staff at a meeting 6 March. It was the position of the respondent's Managing Director (MD) that this was a temporary lay-off, that a contract was due to start in a few weeks enabling the respondent to provide full-time work for the staff on lay-off. In mid-March a temporary role in America became available and this was offered to the appellant. MD assured the appellant that the role in America was temporary and that his job was secure once the contract commenced. The appellant turned down this offer.

It was the appellant's position that following 6 March meeting he was notified that he would be "finished up" from 13 March. Having made inquiries and obtained information on lay-off, the appellant explained the situation about lay-off and redundancy to MD and on or around 18 March 2009 gave MD the relevant form RP9 to complete. MD maintained that the appellant asked him to sign the RP9 to satisfy Social Welfare requirements and that at this time he informed the appellant that his job would resume in a couple of weeks. MD further maintained that on or around 9 April the appellant rang the respondent's office requesting his P45 and outstanding holiday pay. His P45 was issued on 16 April 2009. The appellant maintained that he needed his P45 to claim his dole.

The appellant's position was that having discussed the possibility of receiving a redundancy payment with the Production Manager (PM) he suggested that he (the appellant) speak

to MD about it, which he did on or around 10 April 2009. The appellant told MD that he “was on his knees” and had financial commitments including a mortgage. MD told him that he had no money to pay redundancy and would not look favourably on anyone who sought it. He explained to MD that he should offer him 13 weeks continuous work or else he was entitled to a redundancy payment.

PM told the Tribunal that he telephoned the appellant on Saturday, 17 April and offered him work in Co. Cavan but he turned down the offer. PM was “nearly 100% certain” that the appellant told him that he had secured a job in the gas field in Mayo with a prospect of work for 10 to 12 months as well as a finishing bonus. PM was not aware that the appellant had been issued with his P45 on 16 April. While the appellant agreed that PM telephoned him on 17 April he denied having received an offer of work from him.

Of the 10 staff put on lay-off 7 were taken back. The other members of staff put on lay-off were all re-employed; there was never a possibility of redundancy for any of the staff.

### **Determination**

The Tribunal notes that the RP 9 submitted by the claimant on 18 March 2009 to the employer only bears MD’s signature and accepts that it was submitted at that stage to assist the claimant in claiming social welfare payments. Whilst the appellant did ask MD about redundancy at the end of the four-week period he did not comply with section 12(1) of the Redundancy Payments Acts, 1967 to 2007 which requires that a claim for a redundancy payment by reason of having been on lay-off for four consecutive weeks be made in writing to the employer after the expiry of four weeks on lay-off. In any event the Tribunal is satisfied that the claimant was offered work with the respondent by PM on 17 April and that it was a reasonable offer. Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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