

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE –**Appellant**

RP2441/2010

against

EMPLOYER –**Respondent**

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mrs. M. Quinlan

Members: Mr. J. Flanagan  
Mr. C. Ryan

heard this appeal at Dublin on 14 June 2011

#### **Representation:**

Appellant:

In person

Respondent:

The managing director of the respondent

The determination of the Tribunal was as follows:

#### **Determination:**

The appellant was employed as a tyre fitter from September 2005. By January 2009 the appellant's weekly pay was €785-00. In January 2009 the respondent reduced the appellant's hours of work and his weekly pay to one half of this level, that is €392-50. The appellant's employment came to an end by reason of redundancy in October 2009. The appellant subsequently received a redundancy lump sum payment based on the reduced weekly pay of €392-50. The Tribunal is satisfied that, in accordance with Section 15 (2B) which provides

*“Where a) an employee's remuneration is reduced substantially but not to less than one-half of his normal weekly remuneration, or his hours of work are reduced substantially but not to less than one-half of his normal weekly hours, and*

*b) the employee temporarily accepts the reduction in remuneration or hours of work and*

*indicates his acceptance to his employer,  
such a temporary acceptance for a period not exceeding 52 weeks shall not be taken to be an  
acceptance by the employee of an offer of suitable employment in relation to him”*

The appellant is entitled to receive a lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on his rate of pay in January 2009 before the reduction in pay took effect. The lump sum payment is to be calculated based on the following criteria

Date of Birth	13 October 1977
Employment commenced	5 September 2005
Employment ended	8 October 2009
Gross weekly pay	€785-00

For the avoidance of doubt the appellant, having already received a lump sum payment based on the reduced rate of pay, is only to receive the additional amount reflecting the difference between the two rates of pay used in the earlier calculation and this one awarded by the Tribunal.

This award is made subject to the appellant having been in insurable employment under the Social Welfare Consolidation Act, 2005 during the relevant period. It should be noted that payments from the social insurance fund are limited to a maximum of €600-00 per week.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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