

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
EMPLOYEE

*-appellant*

CASE NO.  
PW246/2009

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

EMPLOYER

*-respondent*

under

### PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr. A. O'Mara  
Mr P. Trehy

heard this appeal at Navan on 20th April 2011

#### **Representation:**

Appellant: Woods Ahern Mullen, Solicitors, 3rd Floor Elgee Building, Market Square,  
Dundalk, Co Louth

Respondent: In Person

**This case came before the Tribunal by way of an employee appeal of the Rights  
Commissioner Decision ref: r-072508-pw-08/JW.**

#### **Summary of Evidence**

The appellant was a driver for the respondent from the 4<sup>th</sup> of September 2006 to the 24<sup>th</sup> of October 2008. The appellant dropped off and collected skips. As a result of an accident while lifting a skip over a wall from a garden a customer's wall was damaged. The appellant maintains the accident was as a result of faulty equipment. The appellant reported the faulty equipment 5 weeks prior to the accident but they had not been properly repaired. The appellant was informed that the cost of repairing the wall (€1,816.00) would be deducted from his wages. The appellant disputed the deduction with the respondent citing that the accident was not his fault but that of faulty equipment and the position that another driver had left the skip was left in the garden.

The respondent believes that this deduction was in accordance with the contract, which states;

‘As an expressed condition of your employment the company reserves the right to deduct from your pay (wages/salary) under section 5 of the payment of wages act 1991 any moneys that the company is forced or obligated to pay as a direct result of your failure to comply with legislation or due to your negligent behaviour.’

The respondent does not believe the accident was as a result of faulty equipment but as a result of negligence on the part of the appellant. The respondent produced maintenance records for vehicle the appellant was driving.

### **Determination**

The Tribunal finds that the deduction to the appellant’s wages was unlawful under the Payment of Wages Act, 1991 . The Tribunal therefore upsets the decision of the Rights Commissioner ref: **r-072508-pw-08/JW** and awards the appellant €1,816.00.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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