

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

EMPLOYEE - *appellant*

Against

EMPLOYER - *respondent*

under

CASE NO.

RP1120/10

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Taaffe

Members: Mr. N. Ormond
Mr. A. Butler

heard this appeal in Dublin on 21st January 2011 and 29th June 2011.

Representation:

Appellant: Mr. Conor Byrne BL, instructed by Mr Piarais Neary, Paul W Tracey, Solicitors, 24 Marlborough Street, Dublin 1

Respondent: Mr. Barry Kenny BL, instructed by Connolly Sullivan, Solicitors, Market Court, Town Hall, Bray, Co. Wicklow

The decision of the Tribunal was as follows:-

Claimants Case:

The appellant began working for the respondent on 18th August 2006 as a bricklayer. On the 13th January 2008, he had a workplace accident and broke his ankle. He was admitted to St James

hospital and had surgery. He handed in medical certificates every month and telephoned in advance to ensure someone would be there to meet him. He was paid in full while out sick until 3rd April 2009, and then received illness benefit from the 13th June 2009 to 16th November 2009.

He informed the respondent that he was lodging a personal injury claim and relations between him and respondent soured. Around July 2009, he handed DB, a Director, a medical certificate and asked about the availability of work. He also informed DB that he was travelling to Poland for three weeks. On his return, he went to the respondent's office to hand in another medical certificate. He met PB, the company Secretary. PB handed him his P45 dated 25th September 2009. The appellant asked PB where was his redundancy money, because he knew some of his colleagues had received redundancy payments. PB told him he was not getting any redundancy payments. He refused to take the P45 and returned to the office in October 2009 and again met PB. She handed him the P45 and said he was not entitled to redundancy as he was quitting his job. In February 2010, the claimant returned to Poland.

Respondents Case

PB gave evidence. The appellant would go to the hospital and give her the medical certificates. On the 28th August 2009, the appellant told her he was getting a screw removed from his ankle and would be unavailable for work for two weeks. In September he telephoned and asked her for his P45 as he was returning to Poland. She told him he could come out and collect it that Friday. When he arrived he asked about money. It was only then that she realised he was looking for redundancy. She told him he was quitting and was not entitled to redundancy payments.

Determination

The Tribunal has carefully considered the evidence adduced from both parties and prefers the evidence of the appellant. The Tribunal awards a lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

| | |
|-----------------------|---------------------------------|
| Date of Birth: | 14 th April 1977 |
| Date of Commencement: | 18 th August 2006 |
| Date of Termination: | 25 th September 2009 |
| Gross Weekly Wage: | €860.00 |

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

It should be noted that a weekly ceiling of €600.00 currently applies to payments from the Social Insurance Fund.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)