

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYER

-appellant

CASE NO.
PW192/2009
TE189/2009

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

EMPLOYEE

-respondent

under

PAYMENT OF WAGES ACT, 1991 TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. R. Maguire, B.L.

Members: Mr. M. Murphy
Mr. S. O'Donnell

heard this appeal at Navan on 10th November 2010 and 19th April 2011

Representation:

Appellant: In Person

Respondent: Richard Grogan & Associates, Solicitors, 16 & 17 College Green, Dublin 2

This case came before the Tribunal by way of an employer appeal of the Rights Commissioner Decision ref: r-075025-pw-09/EH and the Rights Commissioner Recommendation ref: r-075023-te-09/EH. The appellant will be hereinafter referred to as the employer and the respondent referred to as the employee.

Preliminary Point

The Tribunal cannot hear the appeal, as it has no option but to decline jurisdiction. Section 7(2) of the Payment of Wages Act, 1991, provides:

“An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the date on which the decision to which it relates was communicated to him-

(a) a notice in writing to the Tribunal containing such particulars (if any) as may be specified in regulations under subsection (3) and stating the intention of the party concerned to appeal against the decision, and

(b) a copy of the notice to the other party concerned.”

The Tribunal is not satisfied that section 7 (2) (b) above has been complied with and therefore has no alternative but to find that it does not have jurisdiction to hear the appeal under the Payment of Wages Act, 1991, Rights Commissioner Decision **ref: r-075025-pw-09/EH**.

Determination

The employee gave evidence that he did not receive a contract of employment at any time throughout his employment from the 30th of September 2004 to the 31st of October 2008. The employer did not offer any evidence to the contrary. Consequently the Tribunal uphold the recommendation of the Rights Commissioner **ref: r-075023-te-09/EH** awarding the employee €1,400.00 under the Terms Of Employment (Information) Act, 1994 and 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)