

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE

CASE NO.
PW32/2010

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

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. A. Taaffe

Members: Mr. T.P. Flood
Mr . M. O'Reilly

heard this appeal in Dublin on 6 May 2011

Representation:

Appellant(s):
No legal or trade union representation

Respondent(s) :
No attendance or representation

The decision of the Tribunal was as follows:-

This case came to the Tribunal as an employee appeal against Rights Commissioner Decision r-084057-pw-09/POB.

Rights Commissioner Decision r-084057-pw-09/POB stated, in respect of a hearing at the Labour Relations Commission, that the claimant employee had been notified of the date, time and location of the hearing but was not present. The claim was dismissed as a result.

The employee appealed the above decision. He stated that his aunt had had a stroke and had been brought to hospital in Letterkenny. The employee (hereafter referred to as the appellant) accompanied his mother there to take care of his aunt. He and his mother were the only family members in a position to be able to take the time to go. On their return the appellant was shocked to find a letter from the Labour Relations Commission stating the upcoming date of the hearing which had come and gone in the time that he had been away. The appellant stated in his appeal that he would like a chance to have his case heard as he had not been paid anything when he was dismissed.

The employer (hereafter referred to as BG) wrote to the Tribunal alleging that the appeal was not properly before the Tribunal on the basis that Rights Commissioner Decision r-084057-pw-09/POB had been appealed outside the allowed six-week appeal period. It is held that, since the appeal was originally lodged within the proper period, this submission is not upheld.

After the Tribunal scheduled 6 May 2011 as the date for this case to be heard BG made a postponement application on the grounds that he would not be able to attend the Tribunal hearing but this was refused.

At the Tribunal hearing the appellant was asked about the Labour Relations Commission hearing that he had not attended. He referred to serious family circumstances. He presented the Tribunal with documentation which included a letter (not marked as being “without prejudice”) from BG to a firm of solicitors representing the appellant. The said letter acknowledged that the appellant was “owed in total €842.77”.

Determination:

The Tribunal allows the appeal against Rights Commissioner Decision r-084057-pw-09/POB and awards the appellant the sum of €842.77 under the Payment of Wages Act, 1991.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)