

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.
RP1117/2010

EMPLOYEE

MN781/2010

against
EMPLOYER
under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. Clancy

Members: Mr T. Gill
Ms H. Henry

heard this appeal at Galway on 11th July 2011

Representation:

Appellant(s) : Ms. Martina Weir, SIPTU, No 3 Branch, Forster Court,

Respondent(s) : Director of respondent company

Summary of evidence

The appellant gave evidence that he commenced working as a machine driver for the respondent company in April 2005. He remained in continuous employment and returned to his native country, Slovakia on holidays in May 2009. Prior to going on holidays he was told by (VL) from the respondent company that his job would be available for him on his return from holidays. He returned from holidays and returned to work for the respondent. In July 2009 (VL) told him that there was a problem in obtaining work and he was given his P45 on 7 July 2009. He then went back to Slovakia but could not find any employment in Slovakia. He returned to Ireland and recommenced working for the respondent company in October 2009. He continued working 3 days per week until December 2009 when the job finished. He did not receive any notice of the termination of his employment and did not receive any redundancy payment.

(VL) for the respondent company gave evidence that he accepted that the appellant worked for the company in accordance with the evidence given by the appellant. However he told the Tribunal that the appellant was not let go on 7 July 2009 but left his employment to return to Slovakia to work

for his sister's company and requested his P45 from the respondent company. A letter confirming this position bearing the appellant's signature was opened to the Tribunal at the hearing.

In response to questions from the Tribunal the appellant gave evidence that he did not fully understand the content of the letter of 7 July 2009 and understood that it was part of documentation required in order for him to claim job seekers benefit. The letter was not translated for him by the respondent company and nobody explained the letter to him.

Determination

The Tribunal carefully considered the evidence adduced by both parties at the hearing. The Tribunal heard contradictory evidence as to why the appellant left his employment on 7 July 2009. In all the circumstances the Tribunal is not satisfied that the appellant was dismissed by reason of redundancy on that date and accordingly the claim under the Redundancy Payments Acts 1967 to 2007 is dismissed. The claim under the Minimum Notice and Terms of Employment Acts 1973 to 2005 is also dismissed as the Tribunal finds that the appellant did not have the required service to bring such a claim under the said Act.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

