

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE

CASE NO.
RP1095/2010

and

EMPLOYEE

RP1235/2010

against

EMPLOYER
under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. P. McGrath BL

Members: Mr. R. Murphy
Ms. M. Finnerty

heard these appeals in Dublin on 11 January 2011

Representation:

Appellant(s):

Mr. Blazej Nowak, Polish Consultancy Enterprise,
107 Amiens Street, Dublin 1

Respondent(s):

No attendance or representation

The decision of the Tribunal was as follows:-

The appellants, a driver and a mechanic, sought redundancy awards from the Tribunal on the grounds that redundancy calculations previously processed (on the basis of a gross weekly pay of some four hundred euro in respect of each man) had not taken account of a weekly allowance of some two hundred euro which the appellants' representative stated to have been common in the haulage industry. This allowance was stated not to have been taxable. It would not be reflected in a P60. It was submitted that, according to Schedule 3 Paragraph 13 of the Redundancy Payments Act, 1967, normal weekly remuneration constituted earnings which included any regular bonus or allowance which did not vary in relation to the amount of work done.

Invited to comment on the principle that remuneration should attract income tax, the appellants'

representative proffered sample payslips (in respect of each appellant). The payslips showed an allowance which was classified as “non taxable adds”.

Informed that this division of the Tribunal might not want to set a precedent, the appellants’ representative stated that he had made this argument successfully to a newly-appointed division of the Tribunal.

No evidence was offered by or on behalf of the respondent which did not attend the hearing.

Determination:

The Tribunal was not satisfied that the appellants’ gross weekly wages were greater than the amounts disclosed in the redundancy (RP50) forms and, accordingly, the Tribunal would not re-visit the redundancy payments already made out of the Social Insurance Fund. The appeals under the Redundancy Payments Acts, 1967 to 2007, fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)