

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE

(*appellant 1*)

RP375/2010

EMPLOYEE

(*appellant 2*) RP806/2010

Against
EMPLOYER
under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan

Members: Mr J. Browne
Mr J. Flannery

heard this appeal at Wexford on 4th July 2011

Representation:

Appellant(s) :

Coghlan Kelly, Trinity Chambers, South Street, New Ross,
Wexford

Respondent(s) :

In person

The decision of the Tribunal was as follows:

Appellant 1

Note: The fact of redundancy was not disputed by the respondent rather the respondent's claim was that the absence of the claimant from work for three months commencing March 2002 interrupted the claimant's employment with the respondent and that, therefore, the claimant's date of commencement for the purposes of calculating the redundancy lump sum was June 2002.

Determination

The Tribunal having carefully considered the evidence adduced at the hearing finds that the claimant sought three months' leave without pay from the respondent at the end of February 2002 and not a termination of his contract of employment. The Tribunal finds that the respondent authorised this leave of absence albeit that the respondent in its own mind might have

intended that a return to work at the end of the said leave be subject to work being available within the respondent company. Therefore, in accordance with section 5(1)(ii) or (iv) of Schedule 3 of the Redundancy Payment Act 1967, as amended by section 12 of the Redundancy Payments Act 2003, the Tribunal finds that the said three months' leave of absence did not interrupt the claimant's employment with the respondent. The Tribunal finds that the claim under the Redundancy Payments Acts, 1967 to 2007 succeeds and the claimant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Birth:	13 th April 1971
Date of Commencement:	6 th January 1998
Date of Termination:	6 th November 2009
Gross Weekly Pay:	€ 712.08

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 payments from the social insurance fund are limited to a maximum of €600-00 per week

The claim in relation to *appellant 2* was withdrawn on the day of hearing.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)