

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE

-Appellant

CASE NO.
RP2534/2010
MN1819/2011

against

EMPLOYER

-Respondent

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. N. Russell

Members: Mr. J. Browne
Ms. S. Kelly

heard this appeal at Waterford on 26th August 2011

Representation:

Appellant: In Person

Respondent: No appearance or representation on behalf of the respondent.

The decision of the Tribunal was as follows:

The appellant worked as a barman in the respondent hotel. On the 4th April 2010 a fire caused damage to parts of the hotel. A director of the hotel assured the appellant that the hotel would re-open as soon as the repairs were carried out. However, the appellant was subsequently issued with a P45 later that week. The hotel did not re-open.

Determination:

The Tribunal was satisfied that the respondent was duly notified of the hearing. Neither the respondent nor a representative on its behalf attended the hearing to explain the reasons why the hotel did not re-open. In such circumstances, with the presumption of redundancy and the fact that a P45 was issued to the appellant almost immediately, the Tribunal finds that the respondent did not discharge the presumption of redundancy.

Accordingly, based on the appellant's uncontested evidence the Tribunal finds that he is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Birth: 24th January 1965

Date of Commencement: 14th May 2002
Date of Termination: 8th April 2010
Gross Weekly Pay: €420.00

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

The appellant stated that he had omitted to “tick the box” to bring a claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005. However, he also stated that it was evident from section 10 of the T1A form that he had intended to bring such a claim. In this section he had outlined in writing that he “..was not paid any money in lieu of notice.”

The Tribunal finds that the respondent company was on notice of the appellant’s intention to bring a claim under these Acts. Therefore, the Tribunal also finds that the appellant is entitled to the sum of €1,680.00 (being the equivalent of four weeks’ gross pay) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)