

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

TE147/2010

-appellant

PW155/2010

For appeal of the recommendation and decision of the Rights
Commissioner,

R087089-te-09/JW and 087091-pw-09/JW, in the case of:

EMPLOYER

-respondent

under

**TERMS OF EMPLOYMENT (INFORMATION) ACTS, 1994 AND 2001
PAYMENT OF WAGES ACT, 1991**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. F. Crawford BL

Members: Mr. P. Pierce
Ms. C. Ryan

heard this appeal at Naas on 12 April 2011
and 7 September 2011

Representation:

Appellant:

Respondent: Karl Carney, Karl M. Carney & Co., Solicitors, Raheen, Arklow, Co.
Wicklow

The determination of the Tribunal was as follows: -

Preliminary:

This case came before the Tribunal as an Appeal from the decision of the Rights Commissioner dated the 14th April 2010. The Respondents' made a preliminary objection that the "copy of the notice (of appeal) was not served to the other party concerned" within the time period prescribed in Section 7 (2)(b) of the Payment of Wages Act 1991 and . The Tribunal was satisfied that the Solicitor on record who had been in attendance before the Rights Commissioner had been served and notified within the time period, the Solicitor had never reverted back to the Applicant that was no longer on record or in any way contacted the Appellant that should not have been notified, the Solicitor accepted that the Respondents were notified well within the time period, there had been ongoing correspondence between the Solicitor for the Respondents and the representative for the Claimant

prior to the Rights Commissioner Hearing, all parties were clear as to what happened on the day before the Rights Commissioner, and that there was no precedent provided to the Tribunal which did not show that notification to the legal representative was not sufficient within the meaning of the legislation.

Background:

The appellant was employed as a bookkeeper for the respondent who had several premises. She stated she never received a contract of employment and the respondent stated they could not offer a copy or acknowledgment of receipt of a contract of employment or terms and conditions for the appellant.

In respect of the payment of wages appeal the appellant gave evidence of a lack of payment for a cut in hours / wages to the value of € 68.00 per week for 18 weeks due to a duty she performed being outsourced. A week for study leave to the amount of € 725.76 she was paid and later deducted some months later. She stated she had worked up these hours previously. She also stated she had not been paid for 4 days sick leave, to the value of € 657.72, in August 2009 that had been previously agreed she would be paid for yearly.

Determination

Having heard the evidence and submissions by both parties in this case the Tribunal makes the following findings in this case.

Under the Terms of Employment Acts 1994 and 2001 the Tribunal awards the sum of € 750.00.

Under the Payment of Wages Act, 1991 the Tribunal awards the sum of € 725.76 for the week of study leave that was deducted, without the appellant's consent, from her wages from August 2009. The Tribunal also awards the sum of € 500.00 for the period of leave the appellant was not paid while absent on sick leave.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)