

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE –**Appellant**

RP2198/2010

against

MN1566/2010

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: Dr. A-M. Courell BL

Members: Mr. D. Morrison
Mr. T. Gill

heard this appeal at Castlebar on 30 September 2011

Representation:

Appellant:

Mr. Michael Kilcoyne, Castlebar Town Council,
Thomas Street, Castlebar, Co. Mayo

Respondent:

Mr. Paul Dunne, IBEC, Confederation House,
84/86 Lower Baggot Street, Dublin 2

The determination of the Tribunal was as follows:

Determination:

At the outset the appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 was withdrawn.

The appellant was employed as a Health and Safety Officer, at a project on which the respondent was providing services, from 27 August 2007. The contract of employment set out that the employment was for a specified purpose (the completion of the project) and that the Unfair Dismissals Acts did not apply to the termination of the contract where such termination was by reason only of the expiry or termination of the purpose.

On or around 25 May 2010 the appellant was given notice that his employment was to be terminated due to the completion of the respondent's contract at the project. The appellant was paid until 30 June 2010. The respondent denied that this constituted a redundancy situation and their position was that the Redundancy Payments Acts were meant to deal with unexpected situations. The situation in this case was not unexpected having been flagged as not being of indefinite duration from the outset.

The long title of the Redundancy Payments Acts, 1967 to 2007 begins

"An Act to provide for the making by employers of payments to employees in respect of redundancy....."

Section 7 (2) of those Acts provides

"For the purposes of sub-section (1), an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to-

- (a) the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased or intends to cease, to carry on that business in the place where the employee was so employed, or*
- (b) the fact that the requirements of that business for employees to carry out work of a particular kind in the place where he was so employed have ceased or diminished or are expected to cease or diminish, or*
- (c) the fact that his employer has decided to carry on the business with fewer or no employees, whether by requiring the work for which the employee had been employed (or had been doing before his dismissal) to be done by other employees or otherwise, or*
- (d) the fact that his employer has decided that the work for which the employee had been employed (or had been doing before his dismissal) should henceforward be done in a different manner for which the employee is not sufficiently qualified or trained, or*
- (e) the fact that his employer has decided that the work for which the employee had been employed (or had been doing before his dismissal) should henceforward be done by a person who is also capable of doing other work for which the employee is not sufficiently qualified or trained,"*

The Tribunal is satisfied that the appellant's situation is covered by (c) above and is further satisfied that by reason of his having in excess of 104 weeks continuous employment the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

Date of Birth	30 May 1976
Employment commenced	27 August 2007
Employment ended	30 June 2010
Gross weekly pay	€740-00

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

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)