

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO:

EMPLOYEE

RP1548/2011

- appellant

MN1275/2011

against

EMPLOYER

-first named respondent

EMPLOYER

- second named 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: Ms. F. Crawford BL

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

heard this appeal in Naas on 7 September 2011

Representation:

Appellant: In Person

Respondent: Both respondents were represented in person

The decision of the Tribunal was as follows:

Background:

The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 was withdrawn.

The appellant was originally employed by the first named respondent (MRS) on February 4th 2006. While working for this respondent he was subcontracted to the second named respondent (GED) but remained paid by MRS. Business declined for MRS and he had to let the appellant, and other staff, go. He contacted the owner of GED to see if he could take the appellant and his brother on.

The owner of MRS contacted the appellant and his brother and informed him what was happening. He also asked an employee from MRS to contact the appellant and his brother and inform him on

February 1st 2008, in his native language, that he would no longer be working for the MRDS and would be working for the GED from the following Monday. His P45 was sent to GED. The appellant spoke to the owner of GED and was informed that he would be working under the same terms and conditions, rate of pay and in the same location as before. In May 2009 he received a P45 from GED and he spoke to the owner of MRS, who was also a shareholder in GED but did not deal in the workings of it day to day. The appellant again worked for GED in November 2010 for a time and again in August 2010.

Determination:

The Tribunal have carefully considered the evidence and submissions adduced by all parties in this case and find the appellant was made redundant from GED having been transferred under the European Communities (Protection of employees On Transfer of Undertakings) Regulation 2003 from MRS. Accordingly the Tribunal makes the following award:

Date of Birth: 14 April 1976

Service from: 14 February 2006 to 20 August 2010

Date of Notice Given: 20 August 2010

Normal weekly remuneration: € 766.00

Non-reckonable service: 01 February 2009 to 01 March 2009

08 May 2009 to 01 November 2009

26 April 2010 to 06 August 2010

A ceiling of € 600.00 applies to any payments from the Social Insurance Fund and these awards are subject to the claimants having been in employment which is insurable for all purposes under the Social Welfare Consolidation Act 2005.

Sealed with the seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

(CHAIRMAN)