

## EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYEE – **Appellant (The Employer)**

TE173/2011

against the recommendation of the Rights Commissioner R-098526-TE-10/JC  
in the case of:

EMPLOYER – **Respondent (The Employee)**

under

### TERMS OF EMPLOYMENT (INFORMATION) ACTS, 1994 TO 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. D. MacCarthy SC

Members: Mr. E. Handley  
Mr. S. O'Donnell

heard this appeal at Dublin on 5 October 2011

#### **Representation:**

Appellant (The Employer):

Mr. Michael McGrath, IBEC, Confederation House,  
84/86 Lower Baggot Street, Dublin 2

Respondent (The Employee):

Ms. Julienne Paye, Richard Grogan & Associates,  
16-17 College Green, Dublin 2

This case came before the Tribunal by way of an appeal by the employer against the recommendations of a Rights Commissioner **R-098526-TE-10/JC**.

The determination of the Tribunal was as follows: -

#### **Determination**

While it is accepted that the employer gave the employee a written statement of terms of employment at the start of the employment in 2005 it is the employee's position that this was effectively a pro forma document with the relevant details, which were specific to her to be filled in at a later date after she had signed it. The employer's position is that the employee was

given a complete document around the time of the start of the employment, which had been signed and returned to the employer. Neither party was able to produce a copy of any document created at that time. The employee's position being that she had not kept a copy and the employer's position being that the document had been lost when they relocated their office to its current location. Section 3(5) of the Terms of Employment (Information) Acts, 1994 to 2001 provides

*“A copy of the said statement shall be retained by the employer during the period of the employee's employment and for a period of 1 year thereafter”*

As the employer failed to comply with this provision the Tribunal must hold in favour of the employee on this point. However, it is common case that there was partial compliance with the Act and the Tribunal varies the recommendation of the Rights Commissioner and awards €350-00 under the Terms Of Employment (Information) Acts, 1994 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)