

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:	CASE NO.
EMPLOYEE- first named appellant	RP2548/10
EMPLOYEE- second named appellant	RP2549/10
EMPLOYEE- third named appellant	RP2550/10
EMPLOYEE- fourth named appellant	RP2551/10
EMPLOYEE- fifth named appellant	RP2552/10
EMPLOYEE- sixth named appellant	RP2552/10
EMPLOYEE- seventh named appellant	RP2553/10
EMPLOYEE- eighth named appellant	RP2553/10
EMPLOYEE- ninth named appellant	RP2554/10
EMPLOYEE- tenth named appellant	RP2555/10
EMPLOYEE- eleventh named appellant	RP2555/10
EMPLOYEE- twelfth named appellant	RP2556/10
EMPLOYEE- thirteenth named appellant	RP2556/10
EMPLOYEE- fourteenth named appellant	RP2557/10
EMPLOYEE- fifteenth named appellant	RP2557/10
EMPLOYEE- sixteenth named appellant	RP2558/10
EMPLOYEE- seventeenth named appellant	RP2559/10
EMPLOYEE- eighteenth named appellant	RP2560/10
EMPLOYEE- nineteenth named appellant	RP2561/10
EMPLOYEE- twentieth named appellant	RP2561/10
EMPLOYEE- twenty first named appellant	RP2562/10
EMPLOYEE- twenty second named appellant	RP2562/10
	RP2563/10
	RP2564/10
	RP2565/10
	RP2624/10
	RP2625/10
	RP2626/10
	RP861/11

against

EMPLOYER–First Named Respondent

EMPLOYER–Second Named Respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr L. O’Cathain

Members: Mr G. Andrews
Mr F. Dorgan

heard these appeals at Clonmel on 14 November 2011

Representation:

Appellants:

Mr Ger Kennedy, SIPTU Connolly Hall,
Churchwell, Tipperary Town,
Co. Tipperary

Respondent:

Mr Colin Morrissey, English Leahy Solicitors,
8 St. Michael Street, Tipperary Town,
Co. Tipperary, for the first named respondent

Mr Marcus Dowling BL instructed by Ms Aisling Butler,
William Fry Solicitors, Fitzwilton House,
Wilton Place, Dublin 2, for the second named respondent

The determination of the Tribunal was as follows:

Determination:

The position of the first named respondent was that, whilst accepting the appellants had been their employees, albeit on a job initiative scheme whereby the second named respondent had provided the funds to enable the first named appellant to pay the appellants then, in circumstances where other funding for materials used on the job initiative scheme had been withdrawn by another arm of the state, any liability for lump sum payments under the Redundancy Payments Acts fell on the second named respondent.

The position of the second named respondent was that they were not the employer but rather the funding agent of the first named respondent which was the employer of the appellants. Their position was further that the first named respondent was not a business but that the job initiative scheme was a labour market intervention and that, even though materials funding had been withdrawn, the second named respondent had offered alternative placements to the appellants such that there was no entitlement to lump sum payments in the event that the Tribunal found that the second named respondent was the employer.

The appellants' position was that the first named appellant was the employer and that the appeals against the second named respondent had only been lodged in response to the first named respondent's claim that any liability lay with the second named respondent.

The first named respondent issued the appellants with contracts of employment which describe them as employees. The payslips received by the appellants name the first named respondent as the employer. In those circumstances the Tribunal was satisfied that the appellants were employed by the first named respondent and that the second named respondent bore no further responsibility in the matter.

The first named respondent then conceded liability for the payment of lump sum payments under the Redundancy Payments Acts to all except the sixteenth and twenty second named appellants. The appeals of the sixteenth and twenty second named appellants were then withdrawn. The Tribunal was then satisfied that the remaining appellants are entitled to lump sum payments under the Redundancy Payments Acts, 1967 to 2007 based on the criteria contained in the following schedule.

These awards are made subject to the appellants having been in insurable employment under the Social Welfare Acts during the relevant period.

Claim No.	Appellant	Date of Birth	Employment Started	Employment Ended	Gross Weekly Pay
RP2548/10	First Named	08/01/1954	24/11/2003	11/06/2010	432
RP2549/10	Second Named	17/11/1961	26/07/2004	11/06/2010	432
RP2550/10	Third Named	15/08/1956	15/05/2000	11/06/2010	432
RP2551/10	Fourth Named	05/07/1950	01/05/2000	25/06/2010	432
RP2552/10	Fifth Named	25/10/1952	27/07/2005	28/05/2010	432
RP2553/10	Sixth Named	04/07/1960	24/11/2003	11/06/2010	432
RP2554/10	Seventh Named	05/09/1956	24/11/2003	11/06/2010	432
RP2555/10	Eighth Named	27/07/1945	25/07/2005	28/05/2010	432
RP2556/10	Ninth Named	19/07/1951	21/07/2003	11/06/2010	432
RP2557/10	Tenth Named	01/12/1955	27/11/2000	11/06/2010	432
RP2558/10	Eleventh Named	31/03/1951	15/05/2000	25/06/2010	432

RP2559/10	Twelfth Named	17/10/1945	24/09/2001	11/06/2010	432
RP2560/10	Thirteenth Named	16/07/1950	08/05/2000	25/06/2010	432
RP2561/10	Fourteenth Named	30/09/1947	08/12/2003	11/06/2010	432
RP2562/10	Fifteenth Named	09/08/1949	24/11/2003	11/06/2010	432
RP2564/10	Seventeenth Named	20/01/1948	15/05/2000	25/06/2010	432
RP2565/10	Eighteenth Named	16/09/1954	01/05/2000	25/06/2010	432
RP2624/10	Nineteenth Named	26/02/1946	11/10/2004	25/05/2010	420
RP2625/10	Twentieth Named	24/06/1959	01/12/2003	11/06/2010	432
RP2626/10	Twenty First Named	06/08/1955	18/05/2000	11/06/2010	420

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)