

## EMPLOYMENT APPEALS TRIBUNAL

**APPEAL(S) OF:**  
EMPLOYEE  
- *Appellant*

**CASE NO.**  
RP215/2010

against

EMPLOYER  
- *Respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Ms J. Winters  
Mr F. Barry

heard this appeal at Trim on 3rd November 2011

#### **Representation:**

Appellant: Patricia Holohan & Company, Solicitors, 24 Laurence Street, Drogheda, Co Louth

Respondent: In Person

The decision of the Tribunal was as follows:-

The appellant's representative told the Tribunal that the appellant's employment with the respondent company ended by reason of redundancy. He received an RP50 from the respondent company which covered his service from 2005 until his date of termination in 2009. However, the appellant had worked as an employee for the respondent's brother from 22<sup>nd</sup> January 2001 until 2005 and was of the opinion that when he began working for the respondent in 2005 a transfer of undertakings took place.

In 2005 the appellant's employer, who was a sub contractor, took up work on an alternative site. The new site would have involved the appellant travelling a further distance to work. To save the appellant from travelling the employer offered him work with his brother, the respondent, allowing him to continue working on the same site.

When he commenced working for the respondent he did not receive a P45 from his previous employer nor did he receive a redundancy payment. There was no break in service.

**Determination**

The Tribunal, in considering the circumstances, are not satisfied that the continuity of service was broken.

Section 10(a) of the Redundancy Payments Act, 1971 provides

*“A person’s employment during any period shall, unless the contrary is proved, be presumed to have been continuous”*

The presumption under the above section has not been displaced and on the basis of this presumption the Tribunal finds that the appellant was dismissed by reason of redundancy and is entitled to a redundancy lump sum payment under the Redundancy Payments Acts 1967 to 2007 based on the following criteria:

Date of Birth:	25 <sup>th</sup> July 1984
Date of Commencement:	22 <sup>nd</sup> January 2001
Date of Termination:	14 <sup>th</sup> April 2009
Non Reckonable Service:	22 <sup>nd</sup> February 2008 until 14 <sup>th</sup> April 2009
Gross Pay:	€697.83

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

Please note a ceiling of €600 applies to all payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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