

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE
- *appellant*

CASE NO.
RP1412/2010
MN992/2010

against

- EMPLOYER - *respondent*

- EMPLOYER - *respondent*

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 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: Ms Fiona Conroy, Information Officer, Meath Citizens Information Service, 1 Cannon Row, Navan, Co Meath

Respondent: Dr. K

The decision of the Tribunal was as follows:-

The Tribunal heard that the appellant began working in a creche for Dr. K in August 2004. In January 2008 the operation of the first respondent was taken over by the second named respondent. In August 2009 this company was closed due to financial difficulties, resulting in a redundancy situation.

On the 14th August 2009 the appellant received her P45 from the respondent. At this time the appellant was on maternity leave. The appellant requested her redundancy entitlement from the respondent. The respondent did not acknowledge that the appellant was entitled to a redundancy payment under the Redundancy Payments Acts, 1967 to 2007 because she only had 16 months service with the company. The respondent did not take into consideration the appellant's service with Dr. K.

Determination

Section 10 (a) of the Redundancy Payments Act 1971 states “*a person’s employment during any period shall, unless the contrary is proved, be presumed to have been continuous*”. Therefore, the last employer is responsible for all of the service. Based on this, 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	16 th July 1981
Date of Commencement	18 th August 2004
Date of Termination	19 th December 2009*
Gross Pay	€450

*appellant commenced 26 weeks statutory maternity leave on 20th June 2009.

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

The Tribunal also awards the claimant €1800 compensation under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)