

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE

CASE NO.
RP271/2010

and

EMPLOYEE

RP285/2010

against

EMPLOYER
under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr. M. Murphy
Mr. O. Nulty

heard this appeal in Drogheda on 16 March 2011

Representation:

Appellant(s):
No legal or trade union representation at the hearing

Respondent(s):
No legal representation at the hearing

The decision of the Tribunal was as follows:-

The Appeals

The first appellant (SD) commenced security work with an employer (ECLX) in August 1998. This company was taken over by DC (trading as PRX) on 5 January 2009. SD was offered work by another security business (OUTX) which bought the work of PRX. OUTX gave SD a six-month contract and told him that it was not continuing his service. SD brought a redundancy appeal to the Tribunal against DC of PRX.

The second appellant (EC) also commenced employment in August 1998. On 5 January 2009, after

PRX sold its contracts and told all workers that there was no work, EC met the men who purchased the contracts and was given work. He was told that the new company (the abovementioned OUTX) was not taking on his service. He continued in employment with OUTX but brought a redundancy appeal to the Tribunal against DC of PRX.

The Defence

The defence raised by DC was that PRX had been bought out by OUTX and that, therefore, redundancy did not apply.

The Hearing

At the Tribunal hearing DC, SD and EC gave sworn testimony.

DC told the Tribunal that she had consulted an accountant and had taken legal advice. She had told all employees that their jobs would stay the same if they transferred. She furnished a copy of an agreement with OUTX.

EC stated that he had gone to a citizens' advice centre and had been told that OUTX would not take on EC's previous service if it did not wish to do so.

SD stated that he had been told by OUTX that OUTX was just buying the work (rather than taking on SD's previous service).

Determination:

Based on the evidence adduced, the Tribunal finds that the appeals under the Redundancy Appeals Acts, 1967 to 2007, fail because the Tribunal accepts that there was a transfer of undertaking by which the service of the appellants transferred to their new employer after the respondent sold to that new employer which continued to employ the appellants.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)