

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE -*Appellant*

CASE NO.

RP869/2010

against
EMPLOYER -*Respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan B.L.

Members: Mr F. Moloney
Mr F. Dorgan

heard this appeal at Carlow on 4th November 2011

Representation:

Appellant: Mr. Blazej Nowak, Polish Consultancy Enterprise, 107 Amiens Street, Dublin 1

Respondent: No appearance or representation on behalf of the respondent company.

The decision of the Tribunal was as follows:

The appellant gave evidence with the assistance of a Tribunal appointed translator.

The appellant previously applied for a redundancy payment. A Division of the Tribunal heard that appeal on 12th November 2009 and 21st January 2010 (reference RP724/2008). The Tribunal's determination on the matter was as follows,

“Whilst there was a conflict of evidence in relation to the 12th and 26th October 2007, the Tribunal accepts that the respondent followed the normal custom and practice of communicating with employees when the appellant was informed that he was placed on temporary lay-off on the 26th October 2007. There is no doubt but that the appellant did not submit notice in writing to the respondent of his intention to claim a redundancy payment as set out in S.12(1) *“An employee shall not be entitled to redundancy by reason of having been laid off or kept on short-time unless he gives to his employer notice (in this Part referred to as a notice of intention to claim) in writing of his intention to claim a redundancy payment in respect of lay-off or short-time.”* Accordingly, the claim under the Redundancy Payments Acts, 1967 to 2007, must fail.

The appellant remains on lay-off, therefore his claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 must fail.”

Having received this determination from the Tribunal the appellant through his representative

subsequently submitted form RP9 to the respondent company on the 23rd April 2010 and re-applied to the Tribunal for a redundancy payment.

Determination:

Based on the appellant's uncontested evidence and having now satisfied the requirements of S.12(1), the Tribunal finds that the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Birth:	3 rd March 1947
Date of Commencement:	4 th November 2004
Period of non-reckonable service:	26 th October 2007 to 23 rd April 2010
Date of Termination:	23 rd April 2010
Gross Weekly Pay:	€500.00

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

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)