

CORRECTING ORDER

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

- claimant

RP1424/2010

UD1032/2010

Against

EMPLOYER

- respondent

Under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr C. Corcoran B.L.

Members: Mr C. McHugh
Mr F. Keogh

heard this claim at Dublin on 7th October 2011.

Representation:

Claimant: Ms Audrey Coen BL, instructed by Mr. Conor B Cahill, Sheehan & Company,
Solicitors, 1 Clare Street, Dublin 2

Respondent: No appearance by or on behalf of the respondent.

The determination of the Tribunal was as follows:-

This Order corrects the original Order dated 20th October 2011 and should be read in conjunction with that Order.

The Tribunal is satisfied that the following respondent (Michael McNamara & Company) was duly notified of the hearing. Neither this respondent nor a representative on their behalf appeared at the hearing.

The following party is added as an additional respondent in this case:

XXXXXX

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

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Representation:

Claimant: Ms Audrey Coen BL, instructed by Mr. Conor B Cahill, Sheehan & Company,
Solicitors, 1 Clare Street, Dublin 2

Respondent: No appearance by or on behalf of the respondent.

The determination of the Tribunal was as follows:-

The Tribunal is satisfied that the respondent was duly notified of the hearing. Neither the respondent nor a representative on their behalf appeared at the hearing.

Claimant's Case:

The claimant was headhunted by a staff member of the respondent company offering him a position in the company. He accepted the offer on 22nd December 2004 and commenced employment as a Contracts Manager in January 2005. His role was in the civil engineering division of the company. He was in receipt of an annual bonus of €75,000.00.

The claimant secured a chartered civil engineering degree from UCG and held postgraduate qualifications also.

He was seconded to the N7 project.

The claimant received a telephone call from HR on 3 September 2009 and informed that due to the severity of the current downturn in the economy his position was being made redundant. He received formal notice of his redundancy on 16 September 2009 and was given two months notice of same. He received his statutory redundancy payment of €6408.00. After the termination of his employment he secured employment with another company on a contract basis and this ceased in June 2010.

The claimant contended that he was unfairly selected for redundancy. He has since set up his own business and his set up costs were in the region of €10,000.00.

Respondent's Case:

No evidence adduced as there was no appearance.

Determination:

Based on the claimant's uncontested evidence, the Tribunal finds that he was unfairly selected for redundancy and his claim under the Unfair Dismissals Acts, 1977 to 2007 succeeds.

The Tribunal awards the claimant €93,600.00 under the Unfair Dismissals Acts, 1977 to 2007 which is in addition to the sum of €6,408.00 being a statutory redundancy payment already received by the claimant. As remedies under the Unfair Dismissals Acts, 1977 to 2007 and the Redundancy Payments Acts, 1967 to 2007 are mutually exclusive, the claim under the Redundancy Payments Acts 1967 to 2007 fails.

Sealed with the Seal of the

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This _____

(Sgd.) _____
(CHAIRMAN)