APPEAL(S) OF: **CASE NO.**
EMPLOYEE   PW189/2010
    -   *Appellant*

against the recommendation of the Rights Commissioner reference r-086442-pw-09/DI

EMPLOYER
    -   *Respondent*

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. O'Connell B.L.

Members: Ms A. Gaule
                 Mr G. Whyte

heard this appeal at Dublin on 2nd November 2011

Representation:

Appellant: In Person

Respondent: Ms. Anne Byrne, IBEC, Confederation House, 84/86 Lower Baggot Street, Dublin 2

The decision of the Tribunal was as follows:-

This case under the Payment of Wages Act, 1991, came to the Tribunal as an employee's appeal against Rights Commissioner Decision r-086442-pw-09/DI.

At the Tribunal hearing of this appeal the respondent's representative stated that the appellant had not given a copy of the notice of appeal of Rights Commissioner Decision r-086442-pw-09/DI, to the respondent within six weeks of the said decision being given as required by S.7 (2)(b) of the Payment of Wages Act, 1991.

The appellant did not provide evidence that she had complied with S.7 (2)(b) of the Payment of Wages Act, 1991.

Determination:
Regarding appeals from decisions of rights commissioners, Section 7 (2) of the Payment of Wages Act, 1991, provides:

"An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the decision to which it relates was communicated to him-

(a) a notice in writing to the Tribunal containing such particulars (if any) as may be specified in regulations under subsection (3) and stating the intention of the party concerned to appeal against the decision, and
(b) a copy of the notice to the other party concerned."

Given that Section 7 (2) (b) is a mandatory legislative provision, the Employment Appeals Tribunal has no discretion to disregard it. The appeal under the Payment of Wages Act, 1991, against Rights Commissioner Decision r-086442-pw-09/DI fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This   _____

(Sgd.) _____
     (CHAIRMAN)