

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE *-appellant*

CASE NO.
RP1824/2010
MN1297/2010
WT551/201

Against

EMPLOYER *-respondent*

EMPLOYER *-respondent*

Under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S. C.

Members: Ms J. Winters
Mr T. Brady

heard this appeal at Trim on 24th May 2011

Representation:

Appellant: In Person

Respondent: In Person

The appeal under the Organisation of Working Time Act, 1997 was withdrawn at the outset.

Summary of Evidence

The respondent consists of a pub and a hardware shop operated by a father and two sons. The father is in partnership with one son for the hardware shop and the other son for the pub. The appellant commenced employment with the respondent on the 5th of February 2001. In August 2007 the appellant was 'let go' from the pub where he had been working and moved to the hardware shop. In the final year and a half of employment the appellant's hours were reduced and on termination of employment his gross wage had decreased from €385.00 to €155.00 per week.

The appellant has received the equivalent of two weeks minimum notice from the respondent at the full-time rate of €385.00. The appellant maintains he is entitled to four weeks minimum notice based on his length of service.

The respondent contends that the appellant is not entitled to redundancy based on his full service but only entitled to claim from August 2007 to February 2010. The respondent maintains that the appellant resigned from his job in the pub to work in the hardware shop.

Determination

The Tribunal are satisfied that although the business was effectively split in two, it remained the same business. Therefore the appellant has continuity of service for the purposes of the Redundancy Payments Acts, 1967 to 2007. The Tribunal find that as the appellant was on reduced working hours for over a year and as such those hours became his normal working hours.

Under the Redundancy Payments Acts, 1967 to 2007, the Tribunal finds that the appellant is entitled to a redundancy lump sum based on the following details:

| | |
|-----------------------|------------------|
| Date of birth: | 18 July 1985 |
| Date of commencement: | 05 February 2001 |
| Date of termination: | 05 February 2010 |
| Gross weekly pay: | €155.00 |

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

The Tribunal finds that the appellant is entitled to the sum of €620.00 (this amount being equivalent to 4 weeks' gross pay at €155.00 per week) under the Minimum Notice and Terms of Employment Acts, 1973 to 2005. As the appellant has received the sum of €770.00 (this amount being equivalent to 2 weeks' gross pay at €385.00 per week) this equates to an overall nil award under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)