

**CORRECTING ORDER
EMPLOYMENT APPEALS TRIBUNAL**

APPEALS OF:

CASE NO.

EMPLOYEE

RP1393/2010
MN983/2010

against
EMPLOYER

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. C. Egan B.L.
Members: Mr. D. Morrison
 Mr. M. McGarry

heard this appeal at Castlebar on 18th October 2011

Representation:

Appellant: Cllr. Michael Kilcoyne, 9 Turlough Road, Castlebar, Co Mayo

Respondent: The respondent in person

Determination

This order corrects the original order dated the 15th Day of November 2011 and should be read in conjunction with that order. The name of the respondent should read Michael McNicholas and not Michael McNicholas Limited as stated in the original order.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

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Appellant: Cllr. Michael Kilcoyne, 9 Turlough Road, Castlebar, Co Mayo

Respondent: The respondent in person

Appellant's case

The appellant commenced employment with the respondent on 16th February 2006 and was on short time and lay-off at different stages until he was made redundant on 20th April 2009. Having turned up for work as usual on 20th April 2009, the appellant was told that there was no more work for him. The appellant has not received any redundancy lump sum payment from the respondent. At the time that his employment ended the appellant was earning €550.00 gross per week.

Respondent's case

The respondent stated that the appellant was on lay-off from 15th July 2007 to 15th January 2008. He denied that the appellant was made redundant on 20th April 2009 and stated that he had left of his own volition, on that date, as he already had other employment. It was agreed that the appellant's gross pay was €550.00 per week.

The respondent did not replace the appellant as there was a reduction in the amount of work available and the respondent did whatever work there was himself.

Determination

There was a clear contradiction between the evidence of the appellant and that of the respondent. However on the balance of probabilities the tribunal is satisfied that a redundancy situation existed on 20th April 2009 and that the appellant was made redundant on that date.

Therefore the Tribunal awards the appellant €1,100.00 under the Minimum Notice And Terms Of Employment Acts, 1973 to 2005 and a lump sum redundancy payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

DOB	31 st May 1959
Commencement Date	16 th February 2006
Lay-off	15 th July 2007 to 15 th Jan 2008
Termination date	20 th April 2009
Gross pay	€550.00 per week

This award is made subject to the claimant having been in insurable employment, during the relevant period, in accordance with the Social Welfare Acts.

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(CHAIRMAN)