

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
EMPLOYEE

*-Claimant*

CASE NO.  
UD2088/2010  
TE252/2010

for implementation of the recommendations of the Rights Commissioner in the case of:

EMPLOYER

*-Respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007 TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr N. Russell

Members: Mr J. Hennessy  
Ms S. Kelly

heard this claim at Kilkenny on 25th November 2011

#### **Representation:**

Claimant: In person

Respondent: A director of the company.

#### **The determination of the Tribunal was as follows:**

These implementations came before the Tribunal by way of Rights Commissioner's recommendations reference: r-076213-ud-09/JC and r-076216-te-09/JC.

The claimant attended the hearing and confirmed that he had been paid the sum of €2,000 and €1,000 respectively, as awarded by the Rights Commissioner. Indeed the claimant confirmed receiving an additional €1,000 as part-payment of a further sum awarded in other proceedings which were not before the Tribunal.

#### **Determination:**

As Section 7 (4) (a) of the Unfair Dismissals Act, 1977 to 2007, states:

“Where a recommendation of a rights commissioner in relation to a claim for redress under this Act has not been carried out by the employer concerned in accordance with its terms, the time for bringing an appeal against the recommendation has expired and no such appeal has been brought, the employee concerned may bring the claim before the Tribunal and the

Tribunal shall, notwithstanding subsection (5) of this section, without hearing the employer concerned or any evidence (other than in relation to the matters aforesaid), make a determination to the like effect as the recommendation.”

The Tribunal cannot implement the recommendation of the Rights Commissioner under the Unfair Dismissals Acts, 1977 to 2007, (reference: r-076213-ud-09/JC), as the recommendation of the Rights Commissioner was carried out in accordance with its terms, the award having been paid in full.

In addition, as Section 6(a) of the Terms of Employment (Information) Act, 1994 and 2001, states

“(6) (a) Where a recommendation of a rights commissioner in relation to a complaint under this Act has not been carried out by the employer concerned in accordance with its terms, the time for bringing an appeal against the recommendation has expired and no such appeal has been brought, the employee concerned may bring the complaint before the Tribunal and the Tribunal shall, without hearing the employer concerned or any evidence (other than in relation to the matters aforesaid), make a determination to the like effect as the recommendation.”

Accordingly, the Tribunal cannot implement the recommendation of the Rights Commissioner under the Terms Of Employment (Information) Act, 1994 and 2001, (reference: r-076216-te-09/JC)), as the recommendation of the Rights Commissioner was carried out in accordance with its terms, the award having been paid in full.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)