

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE

CASE NO.
RP1164/2011

against
EMPLOYER

EMPLOYER

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms M. McAveety

Members: Mr P. Pierson
Mr O. Nulty

heard this appeal at Longford on 20th January 2012

Representation:

Appellant: Longford Citizens Information, Level One, Longford Shopping Centre,
Longford

Respondent: No representation listed

The appellant claimed that his employment, which commenced on 12 July 2008, ended by reason of redundancy in November 2010. He was the sole employee and initially began on a one year contract but the employment continued until the business was sold on. The appellant did take a 5 week holiday but had never been dismissed. He did sign a contract at a later stage of his employment but that was on foot of a NERA inspection which regularised the employment records.

The respondent stated that she and the appellant had worked together in the business for years. She took over the business in 2008 and became his employer. The appellant went on holidays in 2009 but gave no return date. It was unauthorised that he take 5 weeks and on his return he enquired if he still had a job. She gave him a new contract to sign and as far as she was concerned his service had been broken.

Under cross examination the respondent stated that PRSI continued to be paid during his absence and no notice of dismissal had ever issued.

Determination:

Having heard evidence from both parties the Tribunal finds on the balance of probability that the appellant's employment with the respondent was terminated by reason of redundancy. It appears that the new contract was a paper exercise, no dismissal took place and the appellant did not at any time voluntarily leave his employment. The respondent continued to make PRSI contributions for the duration of his employment

Accordingly the appeal under the Redundancy Payments Acts, 1967 to 2007 is allowed and the appellant is awarded a statutory lump sum under those Acts and based on the following:

Date of Birth: 05 July 1978
Date of Commencement : 12 July 2008
Date of Termination: 20 November 2010
Gross Weekly Wage: €436.00

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

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)