

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE - first appellant

CASE NO.
TE217/2010

and

EMPLOYEE - second appellant

TE218/2010

and

EMPLOYEE - third appellant
and

TE219/2010

EMPLOYEE- fourth appellant

TE220/2010

for implementation of the recommendation of the Rights Commissioner
in the case of:
EMPLOYER - respondent

under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Hayes BL

Members: Mr. F. Moloney
Mr. S. O'Donnell

heard this case in Navan on 12 January 2011

Representation:

Appellant(s):

Mr. Blazej Nowak, Polish Consultancy Enterprise,
107 Amiens Street, Dublin 1

Respondent(s):

Mr. Michael Shanley, Oliver Shanley & Co., Solicitors,
62/63 Academy Street, Navan, Co. Meath

The decision of the Tribunal was as follows:-

This case under the Terms of Employment (Information) Acts, 1994 and 2001, came to the Tribunal as employee appeals for implementation of Rights Commissioner Recommendation r-084971-te-09/JC by which the first appellant (SW) was awarded €1,000.00, Rights Commissioner Recommendation r-084962-te-09/JC by which the second appellant (AS) was awarded €200.00, Rights Commissioner Recommendation r-084931-te-09/JC by which the third appellant (RR) was awarded €800.00 and Rights Commissioner Recommendation r-084941-te-09/JC by which the fourth appellant (PH) was awarded €200.00.

The respondents' representative did not argue that the abovementioned Rights Commissioner Recommendations had been appealed or that the employees had received the amounts awarded but he stated that the respondent was insolvent.

Determination:

Section 8 (6) (a) of the Terms of Employment (Information) Act, 1994, states:

“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 aforesaid matters), make a determination to the like effect as the recommendation.”

Given that there was no suggestion at the Tribunal hearing that the Rights Commissioner Recommendations had been appealed within the required period or that the recommended compensation had been paid, the Tribunal makes a determination to the like effect as:

Rights Commissioner Recommendation r-084971-te-09/JC by which the first appellant (SW whose gross weekly pay had been €546.00) was awarded €1,000.00

and

Rights Commissioner Recommendation r-084962-te-09/JC by which the second appellant (AS whose gross weekly pay had been €468.00) was awarded €200.00

and

Rights Commissioner Recommendation r-084931-te-09/JC by which the third appellant (RR whose gross weekly pay had been €468.00) was awarded €800.00

and

Rights Commissioner Recommendation r-084941-te-09/JC by which the fourth appellant (PH whose gross weekly pay had been €468.00) was awarded €200.00.

It should be noted that the appellant employees' gross weekly pay amounts were not disputed at the Tribunal hearing. Any payments that are made from state funds in respect of any qualifying legislation in the event of an employer being in liquidation or receivership are limited to a maximum of €600.00 per week.

Any award that can be permitted to be made from state funds under any applicable legislation may be subject to the employee 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)

