

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE

RP383/2011

appellant

Against

EMPLOYER
under

respondent

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Mr M. Carr
Mr G. Whyte

heard this appeal at Dublin on 30th January 2012

Representation:

Appellant(s): The appellant in person

Respondent(s): The MD of the respondent

The decision of the Tribunal was as follows:-

Determination

The issue is whether continuity of service was broken in 1996. The company records show an absence from February to April 1996, the respondent also produced an unsigned copy of a reference issued to the claimant in February 1996. A P45 issued to the claimant on the 9th February 1996.

The claimant said that this was a temporary period of absence from work where he was required by his employer to undergo practical training on a new machine at another printing plant. During this training he was working on the machine and was paid by the third party company for that work. He said he spent four weeks on this training and the P45 from the company supports this.

As the event happened sixteen years ago there were no other witnesses who could explain the matter further. Indeed in year 2002 the company that had employed him was taken over by the respondent firm.

This was a very difficult case to decide and was further complicated by the fact that the

respondent's records shows an absence of eight weeks, leaving a further four weeks unaccounted for. Moreover the persons representing the employer have no prior knowledge of what happened at that time. The Tribunal considered issuing its own witness summons on some persons who might be able to throw light on the matter but decided not to do so.

Section 10 (a) of the Redundancy Payments Act, 1971 states

10. - " For the purposes of a reference to the Tribunal –

(a) a person's employment during any period shall, unless the contrary is proved be presumed to have been continuous;"

The evidence on both sides is inconclusive and the Tribunal therefore relies on this subsection to find that his employment was continuous.

The Tribunal finds that his redundancy entitlement is calculated as follows

Date of birth:	9 th July 1970
Date of commencement	17 th October 1987
Date employment ended	4 th March 2010
Gross weekly pay	€836.00

Against this we allow a credit of €17,436.00 being the amount already paid to him.

A weekly ceiling of €600.00 applies to all awards made from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

