

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYER - *appellant*

PW151-152/2011

against the recommendation of the Rights Commissioner in the case of:

EMPLOYEE - *first named respondent*

EMPLOYEE - *second named respondent*

Under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Dr. A. Courell BL

Members: Mr. D. Morrison
Mr T. Gill

heard this appeal at Sligo on 29 February 2012

Representation:

Appellant(s): In Person

Respondent(s): Ms Elaine Finneran BL instructed by:
Howley Carter & Co., Solicitors, 1, Wine Street, Sligo

The decision of the Tribunal was as follows:-

This came before the Tribunal by way of an appellant (employer) appealing the recommendations of the Rights Commissioner reference number r-0945003-pw-10/SR and r-094994-pw-10/SR.

Determination:

Regarding appeals from decisions of rights commissioners, Section 7 (2) of the Payment of Wages Act, 1991, provides: "*An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the decision to which it relates was communicated to him-*

(a) *a notice in writing to the Tribunal containing such particulars (if any) as may be*

*specified in regulations under subsection (3) and stating the intention of the party concerned to appeal against the decision, and
(b) a copy of the notice to the other party concerned.”*

Neither the respondents nor their representative received notification of the appeals and therefore Section 7 (2) (b) of the Payment of Wages Act, 1991 was not complied with. Given that Section 7 (2) (b) is a mandatory legislative provision, the Tribunal has no discretion to disregard it. The appeals under the Payment of Wages Act, 1991, against Rights Commissioner Decisions r- 0945003-pw-10/SR and r-094994-pw-10/SR fail and the Right Commissioners recommendations are upheld.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)