

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE - *appellant*

CASE NO.
RP3198/2010

against
EMPLOYER- *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms C. Egan B.L.

Members: Mr. W. O'Carroll
Mr T. Gill

heard this appeal at Roscommon on 24th February 2012

Representation:

Appellant(s) : Roscommon Citizens Information
Service Limited, Unit 17 & 18, Castle View, Castle Street,
Roscommon

Respondent(s) : Peninsula Business Services (Ireland) Limited,
Unit 3 Ground Floor, Block S, East Point Business Park,
Dublin 3

Summary of Evidence

The appellant was employed initially as a labourer and latterly as a scaffolder on a 5 day week basis from September 2003. Due to a downturn in business he was put on a 3 day week by the respondent on 8 June 2009 along with other employees. He remained working on a 3 day week basis and on 30 May 2010 he wrote to the respondent company seeking to return to work on a full-time basis. He told the Tribunal that, during the previous year he had regularly requested verbally from the company foreman that he be allowed to return to work on a full-time basis but he was not offered a full-time position. Witness for the respondent gave evidence that, following receipt of the said appellant's letter of 30 May 2010 the respondent wrote to the appellant on 4 June 2010 stating that the 3 day week basis pertained to his position as scaffolder. He also stated that this was the first occasion the appellant had sought to return

to work on a full-time basis. The company informed the appellant that if he wished to revert to a labouring position he should make contact to discuss same. The Tribunal was told that the appellant's rate of pay would have remained the same as that of a scaffolder if he accepted the full-time labouring position. The appellant, by way of letter dated 10 June 2010 did not accept the labouring position as an acceptable alternative to his position as a scaffolder.

Determination

The Tribunal carefully considered the evidence adduced and is satisfied that the respondent's offer to the appellant by way of letter of 4 June 2010 to discuss a labouring position was a genuine offer and the appellant rejected this offer. The Tribunal finds that the appellant's redundancy payment be based on a 3 day week and, as it was accepted that the appellant had already received his lump sum payment on that 3 day week basis the claim before the Tribunal fails and is hereby dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

