

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE

CASE NO.
RP2365/2010
UD1765/2010
MN1712/2010

- claimant

against
EMPLOYER

- respondent

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan BL

Members: Mr F. Cunneen
Mr J. Maher

heard this claim at Dublin on 11th January 2012

Representation:

Claimant(s) : P.D. Gardiner & Co., Solicitors, 77 Sir John Rogersons Quay, Dublin 2

Respondent(s) : In Person

The determination of the Tribunal was as follows:-

Background:

The claimant was employed as a joiner with the respondent company from 10th March 2003.

Several breaks in service, periods of short-time and periods of full-time took place during 2009 and 2010. They were as follows:

2nd February 2009 – One week off due to unavailability of work

29th May 2009 until 22nd January 2010 – No work available. However, the claimant worked for another company organised by the respondent company. The claimant was still on the respondent's books. The respondent offered to pay his wages while working for the other company but the claimant declined.

22nd January 2010 to 26th February 2010 – Claimant on short-time, 2-3 days per week.

5th March 2010 – Claimant worked full time for eight weeks then was unavailable for work on the ninth week, worked the tenth week, was unavailable the eleventh week worked the twelfth week and was unavailable for the thirteenth week.

The claimant stated that there had been no work available for him and he felt his employment had ended. He received his P45 with a termination date of 18th June 2010.

Determination:

Having considered the evidence adduced at the hearing the Tribunal finds that the claimant was laid off on a number of occasions because of lack of work and that the respondent could not give the claimant any guarantees as to whether the lay offs would be of a temporary nature or otherwise. Accordingly the claim under the Redundancy Payments Acts 1967 to 2007 succeeds. The Tribunal accepts that the respondent acted in good faith and may not have been aware that such lay offs could constitute a redundancy.

The claimant is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria:

Date of Birth:	August 17 1972
Date of Commencement:	March 10 2003
Date of Termination:	June 18 2010
Gross Weekly Wage:	€ 553.80

This award is made subject to the appellant fulfilling current social welfare requirements in relation to PRSI contributions.

The claims under the Unfair Dismissals Acts, 1977 to 2007 and the Minimum Notice and Terms of Employment Acts, 1973 to 2005 were dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)