

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

EMPLOYEE

-appellant

CASE NO.

RP2546/2010

Against

EMPLOYER

- respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Mr R. Murphy
Mr. J. Dorney

heard this appeal at Naas on 15th February 2012.

Representation:

Appellant: In person

Respondent : Mr. David Farrell, Ir /Hr Executive, IBEC, Confederation
House, 84/86 Lower Baggot Street, Dublin 2

The decision of the Tribunal was as follows:-

Determination:

As a preliminary issue the respondent argued that the claim was out of time and not lodged within the fifty two week period provided under Section 24 of the 1967 Redundancy Payments Acts, 1967. In reply the appellant said she sought legal advice and she did not lodge the claim until after formally receiving advice after which time the fifty two weeks had elapsed.

The appellant had worked for company XY from November 1995 until August 2001. XY Ltd had a contract with the respondent to make up and prepare garments. In 2001 this commercial relationship ended, and some of the employees of XY Ltd began working for the respondent.

The Tribunal considered the nature of the relationship between the respondent and XY Ltd. There was no overlapping of shareholding or directorships nor was there any legal merger or transfer of machinery or any goodwill.

The Tribunal is satisfied that no transfer occurred between XY Ltd and the respondent. It

seems to the Tribunal that the appellant became redundant when the contract ended and XY Ltd went out of business but the appellant did not receive a redundancy payment. The Tribunal would therefore find that there is no claim for this respondent between 2001 and 2009.

The appellant's case also fails for another reason. She accepted a redundancy payment based on service from 2001 to 2009 and signed for receipt of same on the RP50. She told the Tribunal that she decided to accept payment and later proceed on back years. Her solicitor later advised her that because of this she was not entitled to claim a greater redundancy amount.

The Tribunal is satisfied that the advice the appellant received is correct.

The appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)