

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
EMPLOYER

CASE NO.  
TE151/2011

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

EMPLOYEE

under

### TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. K.T. O'Mahony BL

Members: Mr. P. Casey  
Mr. D. McEvoy

heard this appeal in Cork on 25 November 2011

Representation:

\_\_\_\_\_

Appellant(s):

No legal representation

Respondent(s) :

Mr. Bill Cogan, Independent Workers Union,  
55 North Main Street, Cork

The decision of the Tribunal was as follows:-

**This case came to the Tribunal as an employer's appeal against a Rights Commissioner's Recommendation r-00703-te-10/pob under the Terms of Employment (Information) Acts, 1994 and 2001, by which the employee was awarded the sum of €1,100.00.**

The appellant herein is referred to as the employer and the respondent as the employee.

The employee claimed that he had not been given written terms of employment within two months of the commencement of his employment with the employer. He had been employed by the employer from 1 July 2007 to 6 August 2010.

The managing director of the employer's company believed that the respondent properly provided a contract containing the terms and conditions of employment to the employee, within two months of the commencement of his employment with the respondent and that the employee signed and returned it to the employer but on checking the file MD could not find it. The employer re-issued a contract to the employee in August or September 2009 and he signed and returned it. The employee had never asked the employer for a contract of employment. The employee's position was that he had received only one contract from the employer and that was in late August 2009 and he signed and returned it to the employer.

The parties agreed at the hearing before the Tribunal that the employee's gross weekly pay had been €525.76 per week.

**Determination:**

The Tribunal, while acknowledging that the employee received a contract of employment in August 2009, is satisfied that he did not get a contract of employment or a written statement of his terms and conditions of employment within the statutory two-month period as required by section 3 (1) the Terms of Employment (Information) Acts, 1994 and 2001.

Given that the employee had not requested a written statement of his terms and conditions of employment from the employer and that the employer had supplied the statement, albeit long outside the statutory period for so doing the Tribunal unanimously finds that the Rights Commissioner's Recommendation award to the employee in the sum of €1,100.00 was a just and equitable award in circumstances where the employee's gross weekly wage was €525.76, and the upper limit for an award under the Act is weeks' remuneration. Accordingly the Tribunal upholds the Rights Commissioner's Recommendation r-00703-te-10/pob under the Terms of Employment (Information) Acts, 1994 and 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

