

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE

CASE NO.
RP566/2011

against

EMPLOYER

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. L. Ó Catháin

Members: Mr D. Hegarty
Mr O. Wills

heard this appeal in Cork on 10 October 2011

Representation:

Appellant(s):

Mr. Noel Murphy, Independent Workers Union, 55 North Main Street, Cork

Respondent(s):

No legal representation

The decision of the Tribunal was as follows:-

It was alleged that the appellant, a general operative, was entitled to a redundancy award after an employment with the respondent from 19 December 2006 to 2 December 2010.

The respondent contested the allegation submitting that the appellant had terminated his own employment and had not been made redundant.

It was put to the appellant that he had refused offers of work from the respondent. The appellant said that his father had died and that his daughter had been sick. He had worked as a general operative and as a cleaner. The respondent had offered work as a cleaner. He had wanted work as a general operative.

GD (the respondent's operations manager) told the Tribunal that the appellant had worked for the respondent (a construction workers' agency) as a general operative, as a flagman and as a cleaner on building sites. However, it was alleged that the appellant had ended his own employment by not making himself available. GD said that he recalled hearing about the appellant's father and that he accepted that the appellant's daughter had been sick if that was what the appellant said.

GD said that the appellant had refused work about seven times. GD thought that the appellant felt that lower rates were not worth his while. When it came to sweeping and cleaning the appellant did not want to work for the respondent any longer. The respondent could get work in at seven in the morning but the appellant would be liable to refuse work although he never refused labouring work. No redundancy form was served on GD. The hearing notice from the Tribunal was the first notice he got. He denied that he had received a 27 January 2011 letter seeking redundancy for the appellant.

Determination:

Having listened carefully to the evidence adduced, the Tribunal was not satisfied that the appellant was entitled to a redundancy lump sum. The appeal under the Redundancy Payments Act, 1967 to 2007, fails.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____
(Sgd.) _____
(CHAIRMAN)

