

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYEE –**First Named Appellant**

RP1449/2011

MN1197/2011

WT451/2011

EMPLOYEE –**Second Named Appellant**

RP1450/2011

MN1198/2011

WT452/2011

against

EMPLOYER –**Respondent**

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J. Smith
Members: Mr D. Morrison
Ms A. Moore

heard these appeals at Letterkenny on 1 May 2012

Representation:

Appellants:

Mr Kevin McElhinney, Gibson & Associates, Solicitors,
Port Road, Letterkenny, Co. Donegal

Respondent:

Mr Seamus Farren, the Receiver

The determination of the Tribunal was as follows:

Determination:

The receiver disputed that the appellants had sufficient service with the respondent at the time their employment was terminated on 17 May 2010 shortly before his appointment. The first named appellant found work by 7 June 2010. It is common case that, prior to being employed by the respondent; they were employed by an associated company which was involved in the construction industry, being transferred to the respondent some time in December 2009. As the receiver did not call any evidence from the former directors or management of the respondent the Tribunal accepts the evidence of the appellants that there was continuity of employment from the associated

company to the respondent.

Accordingly, the Tribunal is satisfied that the appellants are entitled to lump sum payments under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

| Appellant | Date of Birth | Employment Began | Employment Ended | Gross Weekly Pay |
|--------------|---------------|------------------|------------------|------------------|
| 1st Named | 07/10/1964 | 24/11/2002 | 17/05/2010 | €536-00 |
| 2nd Named | 30/09/1982 | 01/05/1998 | 17/05/2010 | €520-00 |

The Tribunal further awards the first named appellant, loss having been established, €1,608-00 being three weeks' pay and the second named appellant €3,120-00 under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

The Tribunal awards the first named appellant €799-76 and the second named appellant €824-36, in both cases being the equivalent of 7.69 days' pay, under the Organisation of Working Time Act, 1997.

These awards are made subject to the appellants having been in insurable employment under the Social Welfare Consolidation Act, 2005 during the relevant period.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)