

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
EMPLOYER

*-Appellant*

CASE NO.  
TE225/2010

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

EMPLOYEE

*-Respondent*

under

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

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr N. Russell

Members: Mr J. Hennessy  
Mr F. Dorgan

heard this appeal at Kilkenny on 20th March 2012

#### **Representation:**

Appellant:  
ESA Consultants, The Novum Building, Clonshaugh Industrial  
Estate, Dublin 17

Respondent:  
Mr. Richard Grogan, Richard Grogan & Associates,  
Solicitors, 16 & 17 College Green, Dublin 2

#### **The decision of the Tribunal was as follows:**

This appeal came before the Tribunal by way of an employer (the appellant) appealing against a Rights Commissioner Recommendation reference: r-084458-te-09/DI.

It was the company's case that the Rights Commissioner had erred in law. As per S. 3 of the Acts, terms of employment should be furnished to an employee not later than two months after the commencement of employment. It was the company's case that the employee commenced employment on 25<sup>th</sup> March 2009. As was company practice the employee's terms of employment were posted to him during April 2009, within the specified statutory time period.

It was the employee's case that having commenced employment on 26<sup>th</sup> January 2009 he did not receive a contract of employment within the specified statutory time period. Furthermore

when it was posted to the employee it was sent to an incorrect address. It was the employee's case that there is an onus on an employer to ensure that the terms of employment are communicated to an employee.

**Determination:**

Having considered the arguments put forward by both parties, the Tribunal upholds the Rights Commissioner Recommendation dated 20<sup>th</sup> July 2010 reference r-084458-te-09/DI under the Terms of Employment (Information) Acts, 1994 and 2001. The company completed the date of commencement as 26<sup>th</sup> January 2009 on the P45 document. This being the case the employee's contract of employment was provided to him outside the stipulated time period set down by the Acts.

Sealed with the Seal of the  
Employment Appeals Tribunal

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