

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

RP3127/2010

Against

EMPLOYER

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. M. Gilvarry
Members: Mr. D. Morrison
 Mr. M. McGarry

heard this appeal at Castlebar on 5th March 2012

Representation:

Appellant:

Martina Weir, SIPTU, Moneen Road, Castlebar, Co Mayo

Respondent:

Peninsula Business Services (Ireland) Limited, Unit 3,
Ground Floor, Block S, East Point Business Park, Dublin 3

Claimant's case

The appellant commenced employment with the respondent on 30th September 2006 and was made redundant on 28th May 2010. He was paid on average €576.00 per week up to 8th April 2008 at which time he went on sick leave. The appellant returned to work on 1st January 2009 and expected to resume working the same number of hours per week as he had worked prior to becoming ill. However he was placed on reduced hours of working and despite his regular requests to be returned to full time working the appellant remained on reduced hours until being made redundant on 28th May 2010.

The appellant received a redundancy lump sum of €3,128.32 based on the reduced wages and he contested that this ought to have been paid on the basis of his previous full time earnings of €576.00 gross per week.

Respondent's case

There were no witnesses for the respondent but their representative stated that the appellant had supplied a medical certificate on his return to work which stated that he was fit to return on a part time basis.

Determination

Having carefully considered the evidence adduced at the hearing the Tribunal is satisfied that the appellant was a full time employee and was placed on reduced hours of working, without his consent and that he consistently sought a return to full time employment. Therefore the Tribunal awards the appellant a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on his full time earnings and the other criteria set out below, less the amount of €3,128.32, which was already paid to him by way of a redundancy lump sum.

DOB	25 th December 1938
Commencement Date	30 th September 2006
Ordinary Illness Benefit	8 th April 2008 to 31 st December 2008
Date notice received	N/A
Termination date	28 th May 2010
Gross pay	€576.00 per week

This award is made subject to the claimant having been in insurable employment, during the relevant period, in accordance with the Social Welfare Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)