

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL OF:  
EMPLOYEE

CASE NO.  
RP2920/2010

Against

EMPLOYER

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. J. Smith

Members: Mr. D. Morrison  
Ms. A. Moore

heard this appeal at Letterkenny on 13th March 2012

Representation:

\_\_\_\_\_

Appellant: In person

Respondent: Mr Patsy Gallagher, Gallagher & Brennan, Solicitors, House B  
Carnamuggagh Upper, Kilmacrennan Road, Letterkenny, Co Donegal

**Appellant's Case**

The appellant stated that he began work for the respondent in 2005. He received his last payment from the respondent in August 2009 and was on sick leave until he was deemed fit to return to work by his doctor in May of 2010.

Despite numerous attempts he could not make contact with the respondent.

It appeared the premises had closed up.

On 22<sup>nd</sup> June 2010 he wrote to the respondents registered address, (that of his solicitor) and received a reply stating that they no longer worked for the respondent. He was informed that they would pass the correspondence on to the respondent and advised the appellant of the respondent's home address.

Under cross examination the appellant stated that he did not write to the home address of the respondent, he sent the medical certificates to Social Welfare only.

He was on a three day week from February 2009.

The appellant never received a P45.

**Respondents case:**

JMcB for the respondent company stated that when the appellant got his last payment in August of 2009 he stated that he was not coming back to work. He never received any further correspondence from the appellant. The business is still active and traded until February 2010, he stated that there would have been employment for the appellant up to January of 2010. The appellant was on a three day week from February of 2009 and he wanted JMcB to sign redundancy forms. He refused to do so as there was still work available for him.

Under cross examination JMcB stated that he had no recollection of the letter the appellant sent to his representative and did not ask if it was followed up on.  
Asked why no P45 had issued JMcB made no reply.

**Determination:**

The Tribunal carefully considered the evidence adduced and found that there was a clear conflict in evidence between the parties. On the balance of probabilities the Tribunal prefers the evidence of the appellant, therefore the Tribunal finds that the appellant was employed with the respondent from August 2005 until the 16th April 2010. His earnings to February 2009 were €520.00 per week. He was on a three-day week from February 2009 and his employment ceased on the 14th April 2010. His gross pay at the time of his lay off was €312.00 per week.

The Tribunal determines that the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria.

Appellant's date of birth	30th March 1973
Date employment commenced:	29th August 2005
Date employment ceased	14th April 2010
Gross weekly pay	€520.00

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

