

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF: EMPLOYEE	- Claimant A	CASE NO. MN1909/2010
EMPLOYEE	- Claimant B	MN1910/2010
EMPLOYEE EMPLOYEE	-Claimant C	MN1911/2010
against EMPLOYER	-Respondent	

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr R. Maguire B.L.

Members: Mr. B. Kealy
Mr. J. Dorney

heard this claim at Dublin on 24th February 2012

Representation:

Claimants: In Person

Respondent: The receiver and liquidator were notified of the hearing. There was no appearance or representation on behalf of the respondent.

The decision of the Tribunal was as follows:

The claimants confirmed the dates of their employment to the Tribunal. It was the claimants case that they had filed RP9 forms with the company on various dates from July 2009 onwards, having allowed the specified time period to have elapsed before serving the forms on the respondent.

However, the claimants did not receive a counter-notice and in fact heard nothing further from the company until the liquidator appointed to the company presented them with RP50 forms in January 2010.

The claimants received advice from the National Employment Rights Authority that they were

entitled to minimum notice as the company had not provided them with counter notice to their notice of intention to claim a redundancy lump sum. It was the claimants' case that as the company had failed to respond to the RP9 forms, the forms they had submitted could be considered null and void, by virtue of the fact that the claimants were provided with RP50 forms from the liquidator. In addition the claimants were aware that their names remained on a list of employees at the time of December 2009.

Determination:

The Tribunal finds that the employees terminated, voluntarily, their own employment by service of the RP9 on various dates. The employer did not contest this notice. The employer did not terminate the employment of the employees as required under s. 4(1) of the Minimum Notice and Terms of Employment Act 1973 and therefore is not required to pay the employees notice. Though there were administrative errors on behalf of the company, indicating that the claimants were still employees up to December 2009, the employees had actually ceased to be so from one week of the date of service of the RP9 in each case.

The legislation in this area, and the forms signed by the employees, make it clear that the Tribunal cannot in these circumstances consider that the employees were terminated by the employer and are therefore entitled to notice. The claims under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, fail.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____
(Sgd.) _____
(CHAIRMAN)