

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE
RP498/2011

CASE NO.

UD398/2011
MN385/2011
WT128/2011

Against

EMPLOYER

EMPLOYER

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
UNFAIR DISMISSALS ACTS, 1977 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: Ms P. McGrath

Members: Mr. A. O'Mara
Mr N. Dowling

heard this claim at Mullingar on 12th April 2012

Representation:

Claimant: In person

Respondent: No appearance by or behalf of respondent

The determination of the Tribunal was as follows:-

Claimant's Case:

The claimant commenced employment in June 2006 as a mechanic. The employment was uneventful until June of 2010 when the respondent employer paid a visit to the claimant's house and told him there was no more work for him at the garage. The claimant was paid by cash each Friday and considered that it was a net amount as the respondent had always advised him that he was working legally.

When the claimant requested a P45 or a P60 the respondent told him that wasn't possible. On contacting the Revenue Commissioners the claimant discovered that full tax and P.R.S.I. had not been declared.

Respondent's Case:

No evidence was adduced as there was no appearance by the respondent.

Determination:

The respondent gentleman recruited the claimant as a mechanic in June of 2006.

The claimant worked well and was a diligent employee. Unfortunately this unscrupulous employer took on this individual saying he'd pay tax and P.R.S.I. on his behalf. In fact he only paid the bare minimum of tax and P.R.S.I., suggesting he only worked 15 weeks in 2008 and 30 weeks in 2009. The claimant understood his weekly pay as €400 per week was a net figure after tax and P.R.S.I. Without explanation, the claimant was dismissed summarily in June 2010. There was no suggestion of this being a redundancy situation as the workplace never closed down and in fact the respondent continues to operate in this business together with his son, to this day. The Tribunal has no doubt that the claimant was unfairly dismissed

The Tribunal awards the claimant €20,000 under the Unfair Dismissals Acts 1997 to 2007 and further awards €800 under the Minimum Notice and Terms of Employment Acts 1973 to 2005 and €720 under the Organisation of Working Time Act 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

