

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE
-appellant

CASE NO.
PW313/2011
TE197/2011

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

EMPLOYER
-respondent

under

PAYMENT OF WAGES ACT, 1991 TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr C. Corcoran B.L.

Members: Mr F. Cunneen
Mr. J. Dorney

heard this appeal at Dublin on 3rd February 2012

Representation:

Appellant: Mr. Blazej Nowak, Polish Consultancy Enterprise, 107 Amiens Street, Dublin 1

Respondent: Mr. Tommy Taylor, 87 St Peters Road, Walkinstown, Dublin 12

This case came before the Tribunal by way of an employee appeal of the Rights Commissioner Decision **r-099806-pw-10/JT** and **r-099771-te-10/JT** under the Payment of Wages Act 1991 and the Terms of Employment (Information) Acts 1984 to 2004. The appellant served the notice of appeal on the respondent as prescribed in the Act.

Appellant's Case

The appellant commenced work on the 26th of July 2010 and worked for six weeks before being put of lay-off. The claimant heard nothing from the respondent until he contacted them asking if there was any work available; he was informed there was still no work available.

The appeal under the Payment of Wages Act is in relation to unauthorised union subscription and Insurance deductions. The appellant did not give written authorisation of make these deductions. It was not explained during the induction process that the insurance deductions were optional. The claimant had worked on the site for two years previous and was a member of the union as it was a 'unionised' site. The contract signed by the appellant was submitted

which includes insurance details.

The appeal under the Terms of Employment (Information) Acts 1984 to 2004 is that the appellants' contract and Terms of Employment was not signed by the respondent as prescribed in the Act.

Respondents Case

The respondent gave the appellant the Terms of Conditions of Employment and Contract as part of an 'induction pack' on commencement of employment. The appellant agreed to join the Insurance Scheme and signed the contract which includes the details of the insurance. The respondent is 'required' to have all staff in the union on a 'unionised' site. The appellant received notice that his employment was being terminated on the 27th of October 2010. The respondent admits the Contract was not signed by the respondent.

Determination

There was an error in calculating the unauthorised deductions in the Rights Commissioner Decision **r-099806-pw-10/JT** and it should equate to €57.42.

Having carefully considered the evidence, the Tribunal upholds the Rights Commissioner Decision **r-099806-pw-10/JT** and **r-099771-te-10/JT** under the Payment of Wages Act 1991 and the Terms of Employment (Information) Acts 1984 to 2004.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)