

CORRECTING ORDER

**EMPLOYMENT APPEALS TRIBUNAL**

**APPEAL OF:**  
EMPLOYEE  
- *Appellant*

**CASE NO.**  
MN2136/2010  
RP2943/2010

WT966/2010

Against

EMPLOYER  
- *Respondent*

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
ORGANISATION OF WORKING TIME ACT, 1997  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr. N. Ormond  
Mr C. Ryan

heard this appeal at Dublin on 11th October 2011

**Representation:**

Appellant: Ms. Ciara O'Duffy B.L. Gerrard L McGowan, Solicitors, The Square, Balbriggan, Co Dublin

Respondent: Mr Breiffni O'Neill, c/o GMC House, Millennium Business Park, Ballycoolin, Dublin 11

**Determination**

This Order corrects the original Order dated 9<sup>th</sup> November 2011 and should be read in conjunction with that Order. The respondent in this case should read John Sinnott Construction & Engineering Services Limited, Kilree, Bagenalstown, Co Carlow and not John Sinnott Construction & Engineering Services, Kilree, Bagenalstown, Co Carlow as stated in the original order.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

**EMPLOYMENT APPEALS TRIBUNAL**

**APPEAL OF:**  
EMPLOYEE  
- *Appellant*

**CASE NO.**  
MN2136/2010  
RP2943/2010

WT966/2010

Against

EMPLOYER  
- *Respondent*

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
ORGANISATION OF WORKING TIME ACT, 1997  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr. N. Ormond  
Mr C. Ryan

heard this appeal at Dublin on 11th October 2011

**Representation:**

Appellant: Ms. Ciara O'Duffy B.L. Gerrard L McGowan, Solicitors, The Square, Balbriggan, Co Dublin

Respondent: Mr Breiffni O'Neill, c/o GMC House, Millennium Business Park, Ballycoolin, Dublin 11

The decision of the Tribunal was as follows:-

The appellant's representative told the Tribunal that the appellant was laid off by the respondent on 14<sup>th</sup> May 2010. The appellant contacted the respondent six weeks later and was informed that there was still no work available.

The respondent's representative told the Tribunal that on the 30<sup>th</sup> June the respondent offered the appellant work in Waterford. The appellant asked if there would be 13 weeks work to which the respondent replied that he did not know.

The appellant filled in an RP9 form and sent it to the respondent. The respondent did not reply

to this.

**Determination**

The Tribunal is satisfied that having served an RP9 on the respondent, the appellant was not guaranteed a period of employment of not less than thirteen consecutive weeks. Accordingly the Tribunal awards the appellant a redundancy payment under the Redundancy Payments Acts 1967 to 2007 based on the following criteria:

Date of Birth:	05 <sup>th</sup> December 1979
Date of Commencement:	14 <sup>th</sup> January 2008
Date of Termination:	14 <sup>th</sup> May 2010
Gross Pay:	€948.43

Please note that a weekly ceiling of €600 applies to all awards made from the Social Insurance Fund. This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

An employee who claims and receives a redundancy payment in respect of lay off or short time is deemed to have voluntarily left his/her employment and therefore not entitled to notice under the Minimum Notice and Terms of Employment Acts, 1973 to 2005. Accordingly the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 must fail.

There was no evidence provided to the Tribunal in respect of the Organisation of Working Time Act, 1997.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

