

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE
- *Appellant*

CASE NO.
RP3029/2010

Against

EMPLOYER
- *Respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr R. Maguire, B.L.

Members: Mr G. Mc Auliffe
Mr S. Mackell

heard this appeal at Naas on 4th July 2012

Representation:

Appellant: In Person

Respondent: In Person

The decision of the Tribunal was as follows:-

Respondent's Case

The respondent told the Tribunal that the company previously held a cleaning contract with a school and when the principal of the school wanted to cut the contract by 40% the respondent could not go forward with the contract. The principal of the school asked the respondent could he employ the appellant directly. The respondent discussed this option with the appellant and thought it was in her best interest to stay working in the school. The appellant worked for the respondent company for 9 years and the respondent presumed that her service would transfer to her new employer.

The appellant requested redundancy from the respondent and he explained to her that he did not think it was a redundancy situation because she was still employed in the same position.

Appellant's Case

The appellant told the Tribunal that the respondent called to her home and explained that the contract with the school had been cut by 40%. The respondent did not offer her alternative work and she asked would she be receiving a P45 to which the respondent replied in the affirmative. The appellant was offered direct employment with the school and she commenced working on a new

contract with no recognition of her service with her previous employer.

Determination

In a redundancy situation the onus is on the employer to be explicit with the information provided to employees, and due to the ambiguity of the respondent in this case, the appellant was disadvantaged in a redundancy situation.

The Tribunal finds that the appellant’s employment was terminated by reason of redundancy. The Tribunal awards the appellant a lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria:

| | |
|-----------------------|--------------------------------|
| Date of Birth: | 18 th April 1956 |
| Date of Commencement: | 3 rd September 2001 |
| Date of Termination: | 6 th July 2010 |
| Gross Pay: | €142.50 |

This award is made subject to the appellant having been in employment which is insurable for all purposes under the relevant Social Welfare Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)