

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD827/2011
RP1134/2011

Against

EMPLOYER
(respondent a) and
EMPLOYER
(respondent b)

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr T. Ryan

Members: Mr T. O'Sullivan
Ms A. Moore

heard this claim at Monaghan on 10th May 2012

Representation:

Claimant: Mr Paul Boyce, Paul Boyce & Co, Solicitors, No 4 Dublin
Street, Monaghan, Co Monaghan

Respondents: Mr. David W. Kearney, Shamwari, 4 Redhills Park, Ellistown,
Co Kildare *for respondent a*
Cathy Naughton, McDwyer Lennon & Company, Esker Place, Cathedral Road,
Cavan *for respondent b*

The determination of the Tribunal was as follows:-

Claimant's case:

The Tribunal heard that the claimant KC was employed by T C H (*respondent a*) as a steel erector in 2005. He then progressed to digger/crane operator. Employment was largely uneventful until 2009 when business slowed down.

Around this time he noticed that the name on payslips changed to T A S (*respondent b*). There was no change in working arrangements and staff were not notified of any change. He did anything that was required and crane driving became about 45% of his work.

KC lost his driving licence in June of 2010, he informed his employer but as a mini bus picked up employees at a set location and took them to sites he felt it was not an issue. He did not need his driving licence to operate a crane. Following his August holidays KC rang to find out where he was working on his return. He went to the office on 25th August where he met with JL the person who had originally hired him and MC who worked in the office. He was advised he would receive a letter which he did, and also received his P45. The letter advised him that as he had no current licence his employment would have to be terminated.

Under cross examination KC stated that he never had a contract of employment and was never told he needed a driving licence. He would always be able to get a lift from others and there was lots of work he could have done but was offered no alternatives.

Determination

Having carefully considered the evidence adduced at the hearing, the Tribunal finds that there was a decrease in the business of *respondent b* who was the employer at the time of the dismissal.

The Tribunal finds that there was a genuine redundancy and the claimant was dismissed by reason of redundancy.

In allowing the appeal under the Redundancy Payment's Acts, 1967 to 2007 the Tribunal awards h im a statutory lump based on the following:

Date of Birth:	20 May 1960
Date of Commencement :	01 January 2005
Date of Termination:	25 August 2010
Gross Weekly Wage:	€775.26

It should be noted that payments from the social insurance fund are limited to a maximum of €600 per week.

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

Accordingly, the claim under the Unfair Dismissals Acts 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

