

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE – **Appellant (The Employee)**

TE40/2011

against the recommendation of the Rights Commissioner R-093404-TE-10/JT
in the case of:

EMPLOYER – **Respondent (The Employer)**

under

TERMS OF EMPLOYMENT (INFORMATION) ACTS, 1994 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr R. Maguire BL

Members: Mr J. Goulding
Mr F. Keogh

heard this appeal at Dublin on 27 June 2012

Representation:

Appellant (The Employee):

Respondent (The Employer):

This case came before the Tribunal by way of an appeal by the employee against the recommendation of a Rights Commissioner **R-093404-TE-10/JT**

The determination of the Tribunal was as follows: -

Determination

The employee had been employed as a security officer by a different employer (DE) which went into receivership in May 2008. On 2 June 2008 the employee transferred and worked for the employer until 17 May 2010. The employee's position was that he did not receive his entitlement under Section 3 of the Terms of Employment (Information) Acts to a written statement of terms and conditions of employment from either DE or the employer.

The employer's position was that the employee transferred to their employ on the same terms and conditions as he had worked under with DE. The employer also opened the following documents to

the Tribunal

- Contract of employment
- Employee code of contract
- Copies of all policies
- Application form

These documents were all signed in the name of the employee and the employer's position was that these documents showed that they had complied with Section 3 of the Acts.

The employee's position was that he had signed none of the above documents opened to the Tribunal but rather his signature had been forged. To this end the employee called evidence from a retired forensic scientist (FS) who is specialised in the analysis of handwriting. FS conducted an analysis of the signature on eight documents, two as supplied by the employer and six as supplied by the employee and signed over the preceding six years including the employee's passport.

The Tribunal accepts FS evidence that, on the balance of probabilities, it is highly unlikely that the employee was the person who signed the impugned documents. It follows that the Tribunal is not satisfied that the employer provided the employee with a written statement of his terms and conditions of employment. Accordingly the Tribunal finds that the complaint is well founded. In all the circumstances the Tribunal awards €900-00, being the equivalent of three weeks' pay, as being just and equitable under the Terms Of Employment (Information) Acts, 1994 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)