

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYEE –**Appellant**

RP2715/2010
MN1938/2010

against

EMPLOYER –**Respondent**

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr P. Wallace

Members: Mr T. L. Gill
Ms H. Murphy

heard these appeals at Galway on 12 March
and 13 July 2012

Representation:

Appellant:

In person

Respondent:

No representation by or appearance on behalf of the respondent

The determination of the Tribunal was as follows:

Determination:

The appellant was employed as a truck driver from September 2007 until July 2010. The respondent went into liquidation on 27 August 2010. On 29 November 2010 the appellant received a cheque for €863-20 in respect of two weeks' minimum notice. He refused to sign form RP50 acknowledging receipt of a lump sum payment under the Redundancy Payments Acts as he disputed the gross weekly pay on which the lump sum had been calculated.

The appellant's position was that his gross weekly pay had been some €550-00 whereas the liquidator had taken a gross weekly pay of €431-60. As the appellant was unable to

provide documentary evidence to support his assertion in regard to his level of pay at the first day of hearing he was afforded the opportunity to provide such documentary evidence on a second day.

On the second day of hearing the appellant opened to the Tribunal a copy of his P60 for 2009. This document showed the appellant to have an average weekly pay of €431-41. As the appellant was again unable to provide the Tribunal with any documentary evidence to support his assertion of a higher level of pay the Tribunal is satisfied that the form RP50 prepared by the liquidator in November 2010 is correct. Accordingly, the Tribunal finds that the appellant is entitled to a lumpsum payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria

Date of Birth	23 October 1971
Employment commenced	11 September 2007
Employment ended	30 July 2010
Gross weekly pay	€431-60

This award is made subject to the appellant having been in insurable employment under the Social Welfare Consolidation Act, 2005 during the relevant period.

The evidence having shown that the appellant received his statutory entitlement to notice the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 must fail.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)