

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE
- *appellant*

CASE NO.
RP1878/2011
MN711/2011
WT268/2011

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 O. Madden B.L.

Members: Mr J. Browne
Ms S. Kelly

heard this appeal at Portlaoise on 11th April 2012

Representation:

Appellant: In Person

Respondent: In Person

The decision of the Tribunal was as follows:-

Appellant's Case

The appellant told the Tribunal that he was employed by the respondent company as a contracts manager from 20th November 2006 until his date of termination on 16th July 2010. On 16th July 2010 the appellant was brought into the office by the owner of the respondent company who provided him with documentation stating that the company accountant had advised that the company should cease trading due to the downturn in the construction industry. The respondent informed the appellant that he would fill out all of the relevant paperwork to ensure that the appellant received all of his statutory entitlements.

The appellant told the Tribunal that he has not received his statutory entitlement under the Redundancy Payments Acts 1967 to 2007 or his statutory period of notice under the Minimum Notice and Terms of Employment Acts 1973 to 2005. He told the tribunal that he is owed 20 days holidays for the year of 2010 under the Organisation of Working Time Act 1997.

Respondent's Case

The owner of the company told the Tribunal that the appellant was notified on 15th July 2010 that the company would cease trading on Saturday 17th July 2010. He gave the appellant the

opportunity to take over the company, including existing contracts and company employees. Part of the appellant's redundancy payment was that he would receive payments for any contract work carried out in the week prior to the closure of the respondent company.

The respondent disputed the amount of outstanding holidays owed to the appellant and maintained that he had received 11 days holidays in 2010 up until his date of termination. He told the Tribunal that the appellant was entitled to 6.9 days in respect of outstanding holidays.

The respondent explained to the Tribunal that there was an ongoing dispute between himself and the appellant in respect of company assets and this was the reason he was contesting the appellant's entitlement to a redundancy lump sum payment. He conceded that the appellant did not receive his statutory minimum notice under the Minimum Notice and Terms of Employment Acts 1973 to 2005.

Determination

The Tribunal heard conflicting evidence from both parties in respect of the appellant's outstanding holiday entitlement and decides that the appellant received his statutory entitlement under the Organisation of Working Time Act, 1997 and accordingly dismisses the claim under this Act.

The Tribunal is satisfied that the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts 1967 to 2007 based on the following criteria:

Date of Birth:	5 th December 1965
Date of Commencement:	20 th November 2006
Date of Termination:	16 th July 2010
Gross Pay:	€1,034.80

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

The Tribunal is satisfied that the appellant's employment was terminated without due notice and accordingly awards the appellant €2,069.60, being two weeks wages, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Please note a statutory ceiling of €600.00 applies to all payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)