

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE
-appellant

CASE NO.
RP721/2009

against
EMPLOYER
-respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C
Members: Mr E. Handley
Mr J. Flannery

heard this appeal at Dublin on 28th November 2011

Representation:

Appellant: Ms Lorraine Walsh, Ashbourne Citizens
Information Centre, Unit 2, Killelland
Square, Ashbourne, Co Meath

Respondent: Mr. Eddie Keenan CIF, Construction
House, Canal Road, Dublin 6

Background:

The issue is whether the claimant was dismissed within one month of completing his apprenticeship and thus disentitled to a redundancy payment.

The company claim that the appellant had not completed a 60 day post phase 7 work requirement i.e. he had to work for 60 days after he did the phase 7 assessment.

Appellant case:

He contends that he received a letter from Fás stating that his apprenticeship ended on 22/07/08.

The Respondent retained him in his position until 25/09/08. His employer dismissed him over two months after the end of his apprenticeship and therefore he feels that he is entitled to redundancy.

Respondent case:

The Appellant finished college in Fás on the 13/06/08. He began working on a named work site (site A) on 15/06/08. The appellant is required to complete 13 weeks on site in phase 7 (final phase of his apprenticeship). This finished on 13/09/08 which the Respondent said was the date

on which his apprenticeship ended. The Respondent had one month in which to terminate the apprenticeship. The appellant was dismissed on 25/09/08 which was within one month.

Determination:

The Tribunal has had to deal with many cases in the past few years where the issue was when apprenticeship ended. In the present case there was confusion as to the date and this seems to have arisen because of inadequate communication between Fás and the company. The date when apprenticeship ends has legal effects on the position of an employer as well as an employee and it is unsatisfactory that the date should be just a matter of opinion. The Tribunal has no jurisdiction to determine any issues between the employer and Fás, which is not a party to the case.

The Tribunal unanimously determines that the claimant's apprenticeship finished on 18th July 2009. His national craft card is dated 18th July 2008. The Tribunal must find that as a matter of law the apprenticeship ended on 18th July 2008. This is in accordance with the certifying body FETAC who issued the card. His employment ended on 25th September 2008 which was more than a month later. The appeal under the Redundancy Payments Acts, 1967 to 2007 succeeds.

The appellant is entitled to a redundancy payment based on:

Date of birth: 12th September 1985.

Service from: 18th August 2005 to 25th September 2008.

Non-reckonable service: Nil.

Normal weekly remuneration: €673.77.

Amount of redundancy payment: €4,332.00.

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period. It should be noted that payments from the social insurance fund are limited to a maximum of €600-00 per week.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

