

## EMPLOYMENT APPEALS TRIBUNAL

**APPEAL OF:**

**CASE NO.**

EMPLOYEE - appellant

RP616/2011

**Against**

EMPLOYER - respondent

**under**

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr C. Corcoran B.L.

Members: Mr J. Horan  
Mr. J. Dorney

heard this appeal at Naas on 21st June 2012.

**Representation:**

Appellant: Mr. Tom O'Dwyer, Membership Information & Support Centre, SIPTU, Liberty Hall, Dublin 1

Respondent: Mr. Paul Dunne, IBEC, Confederation House, 84/86 Lower Baggot Street, Dublin 2

The decision of the Tribunal was as follows:-

**Respondent's Case:**

The respondent is engaged in metal roofing and cladding and is heavily dependent on the construction industry. The Works Manager SG gave evidence.

The appellant was engaged as a temporary casual worker and had several breaks in his service while working for the respondent. The periods he worked were as follows:

11 October 1994 - 3 December 1994  
6 January 1995 – 20 January 1995  
3 July 1995 – 13 January 1996  
25 January 1996 – 7 January 2011

The appellant applied for voluntary redundancy and was accepted. His calculation for redundancy purposes was based on a commencement date of 3 July 1995 and a cessation date of 7 January 2011. He received a redundancy package of €18,984.00. A P45 issued to him after his periods of employment.

He received a long service achievement award with a commencement date of 25<sup>th</sup> January 1996.

The respondent's practice was that any break in service greater than three months was automatically considered to be a break in continuity of service (the "three month rule").

The appellant accepted a financial settlement which included his entitlements under the Redundancy Payments Acts and various other Acts.

**Appellant's Case:**

The appellant was employed as a machine operative. He contended that he had several breaks in his service. He was not made aware of the company policy in relation to the "three month rule". He is claiming an additional redundancy lump sum entitlement for the period from 11<sup>th</sup> October 1994 to 2<sup>nd</sup> July 1995.

**Determination:**

The appellant had several breaks in service during the course of his employment with the respondent. The appellant worked for the respondent for four separate periods of employment. His redundancy lump sum payment was based on a commencement date of 3 July 1995 and a termination date of 7 January 2011.

The Tribunal finds that the appellant is entitled to an additional redundancy lump sum based on his date of birth of 28<sup>th</sup> July 1971, his date of commencement 11<sup>th</sup> October 1994, date of termination 2 July 1995 and gross weekly wage €651.89.

This award is made subject to the appellant having been in employment, which is insurable for all purposes under the Social Welfare Consolidation Act 2005.

It should be noted that a weekly ceiling of €600.00 currently applies to payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)