

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYER - **Employer**

against decisions and recommendations of a Rights Commissioner in the cases of

EMPLOYEE **1st Named Employee**

PW53/2012
PW187/2012
TE99/2012
R-101588-PW-10/EH
R-118513-PW-11/EH
R-118515-TE-11/EH

EMPLOYEE **2nd Named Employee**

PW54/2012
PW188/2012
TE100/2012
R-101584-PW-10/EH
R-118521-PW-11/EH
R-118522-TE-11/EH

EMPLOYEE **3rd Named Employee**

PW55/2012
PW189/2012
TE101/2012
R-101579-PW-10/EH
R-118523-PW-11/EH
R-118524-TE-11/EH

EMPLOYEE **4th Named Employee**

PW56/2012
PW190/2012
TE102/2012
R-101576-PW-10/EH
R-118525-PW-11/EH
R-118526-TE-11/EH

EMPLOYEE **5th Named Employee**

PW57/2012
R-101574-PW-10/EH

EMPLOYEE **6th Named Employee**

PW58/2012
R-101510-PW-10/EH

EMPLOYEE **7th Named Employee** R-101508-PW-10/EH

PW59/2012
PW206/2012
R-118553-PW-11/EH

EMPLOYEE **8th Named Employee**

PW60/2012
R-101505-PW-10/EH

EMPLOYEE		PW61/2012
9th Named Employee		PW200/2012
		TE112/2012
	R-101501-PW-10/EH	
	R-118563-PW-11/EH	
		R-118564-TE-11/EH
EMPLOYEE		PW62/2012
10th Named Employee		TE115/2012
	R-101500-PW-10/EH	
		R-118572-TE-11/EH
EMPLOYEE		PW63/2012
11th Named Employee		PW198/2012
		TE110/2012
	R-101498-PW-10/EH	
		R-118573-PW-11/EH
	R-118574-TE-11/EH	
EMPLOYEE		PW64/2012
12th Named Employee		PW203/2012
	R-101496-PW-10/EH	
		R-118575-PW-11/EH
EMPLOYEE		PW65/2012
13th Named Employee		PW202/2012
	R-101495-PW-10/EH	TE114/2012
		R-118569-PW-11/EH
		R-118570-TE-11/EH
EMPLOYEE		PW66/2012
14th Named Employee		PW201/2012
	R-101492-PW-10/EH	TE113/2012
	R-118567-PW-11/EH	
	R-118568-TE-11/EH	
EMPLOYEE		PW67/2012
15th Named Employee		
	R-101488-PW-10/EH	
EMPLOYEE		PW68/2012
16th Named Employee		PW205/2012
	R- 101485- PW-	
	R-118589-PW-11/EH	

EMPLOYEE		PW69/2012
17th Named Employee		PW196/2012
	R-101483-PW-10/EH	TE108/2012
	R-118594-PW-11/EH	
	R-118595-TE-11/EH	
EMPLOYEE		PW70/2012
18th Named Employee		PW195/2012
	R-101482-PW-10/EH	TE107/2012
	R-118596-PW-11/EH	
	R-118597-TE-11/EH	
EMPLOYEE		PW71/2012
19th Named Employee		PW194/2012
	R-101479-PW-10/EH	TE106/2012
	R-118598-PW-11/EH	
	R-118599-TE-11/EH	
EMPLOYEE		
20th Named Employee		
	R-101477-PW-10/EH	
EMPLOYEE		PW73/2012
21st Named Employee		PW191/2012
	R-105842-PW-10/EH	TE103/2012
	R-118549-PW-11/EH	
	R-118550-TE-11/EH	
EMPLOYEE		PW74/2012
22nd Named Employee		PW192/2012
		TE104/2012
	R-101613-PW-10/EH	
	R-118551-PW-11/EH	
	R-118552-TE-11/EH	
EMPLOYEE		PW75/2012
23rd Named Employee		PW193/2012
	R-101612-PW-10/EH	
	R-118558-PW-11/EH	
	R-118559-TE-11/EH	
EMPLOYEE		PW76/2012
24th Named Employee		PW197/2012
	R-101607-PW-10/EH	TE109/2012
	R-118579-PW-11/EH	
	R-118580-TE-11/EH	
EMPLOYEE		
25th Named Employee		PW183/2012
	R-101604-PW-10/EH	TE95/2012
	R-118284-PW-11/EH	

EMPLOYEE	R-118448-TE-11/EH	PW78/2012
26th Named Employee		
	R-101602-PW-10/EH	
EMPLOYEE		PW79/2012
27th Named Employee		
	R-101600-PW-10/EH	
EMPLOYEE		PW80/2012
28th Named Employee		PW184/2012
	R-101599-PW-10/EH	TE96/2012
	R-118472-PW-11/EH	
	R-118476-TE-11/EH	
EMPLOYEE		PW81/2012
29th Named Employee		PW185/2012
	R-101595-PW-10/EH	TE97/2012
	R-118482-PW-11/EH	
	R-118483-TE-11/EH	
EMPLOYEE		PW82/2012
30th Named Employee		PW186/2012
	R-101593-PW-10/EH	TE98/2012
	R-118487-PW-11/EH	
	R-118490-TE-11/EH	
EMPLOYEE		PW83/2012
31st Named Employee		PW208/2012
	R-101592-PW-10/EH	
	R-118506-PW-11/EH	
EMPLOYEE		PW84/2012
32nd Named Employee		PW209/2012
	R-101589-PW-10/EH	
	R-118511-PW-11/EH	
EMPLOYEE		PW204/2012
33rd Named Employee		TE22/2012
	R-097290-PW-10/EH	
	R-118586-PW-11/EH	
	R-097291-TE-10/EH	
EMPLOYEE		PW199/2012
34th Named Employee		TE111/2012
	R-118565-PW-11/EH	
	R-118566-TE-11/EH	
EMPLOYEE		PW207/2012
35th Named Employee		

under

**PAYMENT OF WAGES ACT, 1991
TERMS OF EMPLOYMENT (INFORMATION) ACTS, 1994 TO 2001**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly BL

Members: Mr N. Ormond
Mr J. Flannery

heard these appeals at Tullamore on 26 July 2012

Representation:

Employer:

Mr Anthony Byrne BL instructed by Mr John Maguire,
Irish Concrete Federation, 8 Newlands Business Park,
Naas Road, Clondalkin, Dublin 22

Employees:

Ms Esther Earley BL instructed by Ms Roisín O'Shea,
Shanley Glennon & Co. Solicitors, 1st Floor, 1 New Street, Longford

The determination of the Tribunal was as follows:

These cases came before the Tribunal as a result of appeals by the employer against a series of decision of the Rights Commissioner under both the Payment of Wages Act, 1991 and the Terms of Employment Information Acts, 1994 to 2001 in the cases of the employees.

Preliminary Issue

At the outset of the hearing when enquiry was made of the employer as appellant as to whether Section 7(2) (b) of the Payment of Wages Act, 1991 which provides

An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the date on which the decision to which it relates was communicated to him –

- a) A notice in writing to the Tribunal containing such particulars (if any) as may be specified under subsection (3) and stating the intention of the party concerned to appeal*

against the decision, and

b) A copy of the notice to the other party concerned

Had been complied with it was conceded on behalf of the employer that this had not been done. Accordingly, the Tribunal found that there was no jurisdiction to hear any of the appeals under the Payment of Wages Act, 1991.

Determination

In respect of the 1st, 2nd, 3rd, 4th, 9th, 11th, 13th, 14th, 17th, 18th, 19th, 21st, 23rd, 24th, 25th, 28th, 29th, 30th and 34th named employees it was conceded on behalf of the employer that those employees had not been issued with written statements of their terms of employment within two months of the commencement of employment as provided in Section 3 of the Terms of Employment (Information) Acts, 1994 to 2001.

Having considered the evidence adduced by the parties in this regard the Tribunal is satisfied that in respect of the 10th, 22nd and 33rd named employees, whose employment began before the commencement of the Acts, they had requested a statement of their terms of employment in accordance with Section 6 of the Acts.

Accordingly, the Tribunal is satisfied that the complaints of all the employees under the Acts are well founded and upholds the recommendations of the Rights Commissioner under the Terms of Employment (Information) Acts, 1994 to 2001 as set out in the following schedule.

Employee	TE No.	Recommendation No.	Weekly Pay	Award Under TE Acts
1 st Named	TE99/2012	R-118515-TE-11/EH	€ 588-25	€ 1,250-00
2 nd Named	TE100/2012	R-118522-TE-11/EH	€ 577-04	€ 1,250-00
3 rd Named	TE101/2012	R-118524-TE-11/EH	€ 577-04	€ 1,250-00
4 th Named	TE102/2012	R-118526-TE-11/EH	€ 577-04	€ 1,250-00
9 th Named	TE112/2012	R-118564-TE-11/EH	€ 580-85	€ 1,250-00
10 th Named	TE115/2012	R-118572-TE-11/EH	€ 625-00	€ 450-00
11 th Named	TE110/2012	R-118574-TE-11/EH	€ 588-25	€ 1,250-00
13 th Named	TE114/2012	R-118570-TE-11/EH	€ 788-60	€ 1,500-00
14 th Named	TE113/2012	R-118568-TE-11/EH	€ 577-04	€ 1,250-00
17 th Named	TE108/2012	R-118595-TE-11/EH	€ 577-00	€ 1,250-00
18 th Named	TE107/2012	R-118597-TE-11/EH	€ 577-00	€ 1,250-00
19 th Named	TE106/2012	R-118599-TE-11/EH	€ 588-25	€ 1,250-00
21 st Named	TE103/2012	R-118550-TE-11/EH	€ 588-25	€ 1,250-00
22 nd Named	TE104/2012	R-118552-TE-11/EH	€ 608-86	€ 1,000-00
23 rd Named	TE105/2012	R-118559-TE-11/EH	€ 577-04	€ 1,250-00
24 th Named	TE109/2012	R-118580-TE-11/EH	€ 588-25	€ 1,250-00
25 th Named	TE95/2012	R-118448-TE-11/EH	€ 588-25	€ 1,250-00
28 th Named	TE96/2012	R-118476-TE-11/EH	€ 588-25	€ 1,250-00

29 th Named	TE97/2012	R-118483-TE-11/EH	€ 578-25	€ 1,250-00
30 th Named	TE98/2012	R-118490-TE-11/EH	€ 577-25	€ 1,250-00
33 rd Named	TE22/2012	R-097291-TE-10/EH	€ 588-20	€ 1,750-00
34 th Named	TE111/2012	R-118566-TE-11/EH	€ 588-20	€ 1,250-00

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)