

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYER - appellant

PW331/11

against the decision of the Rights Commissioner in the case of:

EMPLOYEE - respondent

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr T. Taaffe

Members: Mr. L. Tobin
Ms. E. Brezina

heard this appeal at Dublin on 28th August 2012.

Representation:

Appellant: Mr. John Barry, Management Support Services (Ireland)
Limited, The Courtyard, Hill Street, Dublin 1

Respondent : Ms Eileen Molloy BL, instructed by Muldowney Counihan & Co, Solicitors, 3
Clon Court, Main St, Clonee, Co Meath

This case came before the Tribunal by way of the employer (the appellant) appealing against the decision of the Rights Commissioner under the Payment of Wages Act, 1991 reference r -100079-pw-10/MMG.

The decision of the Tribunal was as follows:-

Determination:

The Tribunal carefully considered all of the evidence adduced. It is satisfied that it was an implied term of the respondent's employment that the payment of sick pay was discretionary. The Tribunal is further and finally satisfied that the exercise of its discretion by the appellant was not fair, reasonable or proportionate insofar as its decision to suspend the respondent's sick pay was taken by them without any consultation with the respondent.

It is therefore found that the decision of the Rights Commissioner is upheld and that the appeal of the appellant fails and the Tribunal so determines. It is finally determined as was agreed by

the parties that the period of loss was 28 days.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)