

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

PW347/2010

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

EMPLOYER

under

### PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. L. Ó Catháin

Members: Mr. P. Casey

Mr. J. Flavin

heard this appeal at Cork on 18th May 2012

Representation:

Appellant: Independent Workers Union, 55 North Main Street, Cork

Respondent: Mr. David Gaffney, Coakley Moloney, Solicitors, 49 South Mall, Cork

This case came to the Tribunal by way of an appeal by the employee against the decision of the Rights Commissioner Ref: r-092748-pw-10/pob.

#### **Appellant's case**

The appellant has worked for the respondent since September 2001. Her current gross pay is €907.20 per fortnight. On 13<sup>th</sup> April 2010 the appellant was asked to take a 20% pay cut and she refused. Subsequently, the appellant received a letter dated 24<sup>th</sup> May 2010 informing her that a 10% pay cut was being imposed on her from 31<sup>st</sup> May 2010 and the appellant responded in writing saying that she did not agree to this pay cut. However the pay cut went ahead from 9<sup>th</sup> June 2010 and resulted in a loss to the appellant of €90.40 per fortnight.

The appellant contested that this amounted to an unlawful deduction from pay requested the Tribunal to order the respondent to restore the loss to the appellant.

**Respondent's case**

The respondent's accountant gave evidence in relation to the finances of the company and stated that there was a 30% reduction in income over the 4 year period to the end of 2011.

The owner also gave evidence in relation to the reduction in income and the efforts he had made to reduce costs. The owner stated that he had no choice but to impose the 10% pay cut. Prior to the pay cut there were ten employees but one retired and another accepted voluntary redundancy. Seven of the eight remaining employees accepted the pay cut but the appellant did not. One new part-time employee was taken on at a post pay cut rate of pay.

**Determination**

Having considered the evidence, and the documents presented, carefully, and over a considerable period of time, the Tribunal, by a majority, upholds the findings of the Rights Commissioner and accordingly makes a determination to the like effect of the Rights Commissioner's decision Ref: r-092748-pw-10/pob.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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