

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE

appellant

TE53/2011

PW91/2011

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

EMPLOYEE

appellant

EMPLOYER

respondent

under

PAYMENT OF WAGES ACT, 1991 TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms F. Crawford B.L.

Members: Mr. M. Flood
Mr. S. O'Donnell

heard this appeal at Dublin on 6th July 2012

Representation:

Appellant(s): The appellant in person

Respondent(s): Mr. Hugh Hannon, Solicitor, Bridgewater House, Islandbridge, Dublin 8

The decision of the Tribunal was as follows:-

This case came before the Tribunal by way of an appeal by an employee appealing against the decision of the Rights Commissioner reference r-090076-pw-10/JC, and the recommendation of the Rights Commissioner r-090082-te-10/JC.

Appellant's Case

The Appellant told the Tribunal that in 1990 he signed a contract of employment. His contract constantly changed and he was not given a copy of the changes. Changes to his contract were placed on a notice board for all employees

He stated that he changed from a five day week to a four day week and refused to sign a contract. This was agreed with the respondent and the union. When he was on a four day week he was rostered to work a 30/32 hour week.

In 2011 he was not paid for the previous years holidays, holidays were always a year behind. This was agreed between the union and the respondent. The appellant maintained that he was owed some money for nite link and Sunday duties.

Respondent's Case

PD told the Tribunal that the appellant was employed as a bus driver since 1990. In 2009 the respondent negotiated a four day week and 80 staff were on that roster. The appellant did not want to accept that roster. The respondent had collective agreements with the trade union and it honours those agreements. The respondent paid the appellant all his entitlements. Drivers are paid premium pay for Sunday regardless of what roster they work.

Determination

Terms of Employment (Information) Act, 1994 and 2001

The Tribunal is satisfied that the employee was issued with a written statement of his terms of employment in accordance with the provisions of Section 3 of the Act. He was made aware of any changes and the respondent complied with the Act. The Tribunal is satisfied that the appellant should be aware of any collective agreement under Section 3(m) of the Terms of Employment (Information) Act 1994

“a reference to any collective agreements which directly affect the terms and conditions of the employee's employment including, where the employer is not a party to such agreements, particulars of the bodies or institutions by whom they were made”

The Tribunal affirms the recommendation of the Rights commissioner and the appeal fails.

Payment of Wages Act, 1991

The Tribunal considered oral evidence and submissions. On the evidence and lack of proof on actual individual claims the Tribunal is satisfied that there has been compliance with the Payment of Wages Act, 1991 and the Tribunal affirms the decision of the Rights Commissioner. The Appeal under the Payment of Wages Act, 1991 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

