

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE -*Appellant*

CASE NO.
RP3107/2010
MN2254/2010

against
EMPLOYER -*Respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr D. MacCarthy S C

Members: Mr J. Hennessy
Mr F. Dorgan

heard this appeal at Wexford on 18th June 2012

Representation:

Appellant: Mr. Thomas Faulkner, UCATT, Ucatt House,
56 Parnell Square West, Dublin 1

Respondent: Kirwan And Kirwan, Solicitors, Cornmarket, Wexford

The decision of the Tribunal was as follows:

The appellant worked sporadic short time hours from November 2008. In September 2010 he resigned because of this.

In the normal course a resignation at this time might be regarded as a dismissal under Section 9(1)(c) of the Act of 1967, but in the present case the appellant had on 8th August 2005 signed an agreement which included the following clause,

“The company reserves the right to lay off from work or reduce your working hours where it is unable to maintain you in employment or in full time employment due to circumstances beyond its control. You will receive as much notice of such lay off or short time as it is reasonably possibly to give.”

Secondly, the appellant worked the reduced hours for more than 52 weeks and his claim is therefore caught by Section 11 of the Act of 1979.

The claim under the Redundancy Payments Acts, 1967 to 2007, fails.

The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, also fails as he resigned.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)