

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

RP1243/2011

against
EMPLOYER

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan
Members: Mr. R. Prole
 Mr. N. Dowling

heard this appeal at Dublin on 15th August 2012

Representation:

Appellant: The appellant in person

Respondent: No appearance by or on behalf of the respondent

There was no appearance by or on behalf of the respondent and the Tribunal is satisfied that they were properly notified of the hearing.

Appellant's case

The appellant commenced employment with the respondent on 26th February 2001 and his employment terminated on 12th November 2010. The respondent was solely funded by FÁS and when the funding was withdrawn the appellant was let go. However within one week of the end of his employment with the respondent the appellant was taken on in the same capacity by another company which was also funded by FÁS.

The appellant submitted to the Tribunal a copy of the Rights Commissioners Decision under the E.C. (Protection of Employees on Transfer of Undertakings) Regulations 2003 Ref: r-108252-tu-11/JT.

This decision stated as follows:

I have considered the submissions of both parties. The matter of the TUPE Regulation is confused by the fact that FAS is the funder of the programme, which the claimant is on. What is clear is the Claimant was transferred to the Coolock Development Council, who has accepted liability for his service in the programme he is on. Therefore the Claimant has not suffered any

loss.

I accept that as far as the Coolock Development Council is concerned no transfer of undertakings has taken place but they accepted liability for the Claimant service under the FAS programme.

Determination

The Tribunal, having considered the Rights Commissioner's Decision under the E.C. (Protection of Employees on Transfer of Undertakings) Regulations 2003 Ref: r-108252-tu-11/JT, is satisfied that the Rights Commissioner decided that there was a Transfer of Undertaking from the respondent to Coolock Development Council in respect of the appellant's employment.

Therefore the appellant's appeal under the Redundancy Payments Acts, 1967 to 2007 fails because there is a continuity of service from the respondent to Coolock Development Council.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)