

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYER – *appellant*

TE288/2011

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

EMPLOYEE – *respondent*

under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Taaffe

Members: Mr. J. Reid
Mr. G. Whyte

heard this appeal in Dublin on 10th April and the 29th May 2012

Representation:

Appellant(s): Mr. Noel O Hanrahan, O'Hanrahan Lally Solicitors,
Dublin Law Chambers, 77 Talbot Street, Dublin 1

Respondent: Ms Grainne Duggan B.L. instructed by Ms Maureen Donohue, Anderson
& Gallagher, Solicitors, 29 Westmoreland Street, Dublin 2

The decision of the Tribunal was as follows:-

The appellant (company) is a printing business and is appealing the recommendation of a Rights Commissioner to award the respondent (employee) €1231.44 for a breach of Section 3 of the Terms of Employment (Information) Act, 1994 and 2001.

Appellants Case

JP is the General Manager and explained a number of documents opened to the Tribunal. There is a registered agreement for the past forty years which is regarded as custom and practice within the printing industry. He said the Trade Unions in the printing industry would not allow them to introduce a contract of employment to their members.

When the respondent started with the company, a payroll details form was completed. This included his name, start date, trade union etc. All staff are also given a staff handbook which they sign for. This includes public holiday and holiday information.

During cross-examination JP said the payroll forms are kept in the office. The date on which the form was given to the respondent was not completed but an employee cannot be added to the clock in system until the information on the payroll form is added.

The company feels that all of the documents given cover the Terms of Employment (Information) Act, 1994 and 2001. Not any one document covers the Act.

The company handbook goes way back and the general terms and conditions have not changed. The company tried four to six years ago to give staff contracts of employment. The Unions said no. The company now gives all staff contracts, the staff sign for them, but the Unions do not accept them.

The payroll sheet does not include the place of work but the company has only one address.

The former owner pass away and the Management bought the company. All staff were made redundant and rehired. The company has 150 staff.

Respondents Case

The respondent said he was not given a copy of the payroll form. He did not complete this form, however the details are correct.

He received a copy of the company handbook for the first time in 2010

During cross-examination the respondent said he was not given any documents. He was given payslips.

Determination:

The Tribunal have carefully considered the evidence adduced in this case. The Tribunal accepts the evidence of the respondent and the appellant's appeal of the Rights Commissioner therefore fails and the Tribunal affirms the award of € 1,231.44 under the Terms of Employment (Information) Act, 1994 and 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)