

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE *-appellant*

CASE NO.
RP1098/2011
MN858/2011
WT328/2011

Against

EMPLOYER *-respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. McGrath B.L.

Members: Mr M. Carr
Mr O. Nulty

heard this appeal at Mullingar on 7th June 2012

Representation:

Appellant: In Person

Respondent: O'Callaghan Kelly, Solicitors, 51 Mulgrave Street, Dun Laoghaire, Co Dublin

Background

The respondent company is a transport company; the appellant was employed as a driver. The appellant had three periods of service commencing initially on the 21st of June 2007 and ending permanently on the 30th of September 2010. On cessation of each period of employment the appellant was given notice that his employment was terminated due to lack of work available for him. The respondent maintains that as they were separate periods of employment the appellant does not have the requisite service to be entitled to a redundancy payment.

Determination

The Tribunal has carefully considered the evidence adduced. The Tribunal is absolutely satisfied that the appellant has over three years' service for the purpose of calculating service under the Redundancy Payments Acts. Whilst the appellant's employment was terminated for two short periods amounting to 6 months in the entire 3 year period, the entitlement to redundancy is not in the gift of an employer. P.R.S.I. payments are made by all employees to allow a softening of the blow of being made redundant. The appellant resumed employment

with the same employer within the requisite 26 weeks on both occasions and therefore his service is counted as being continuous.

The Tribunal find that the appeal under the Redundancy Payments Acts 1967 to 1977 succeeds and award a redundancy lump sum based on the following criteria:

Date of birth:	14 th June 1982
Date employment commenced	21 st June 2007
Date employment ceased	30 th September 2010
Gross weekly pay	€377.34

This award is made subject to the appellant having been in insurable employment during the relevant period under the Social Welfare Acts.

The appeal under the Minimum Notice and Terms of Employment Acts 1973 to 2005 fails as the appellant received his statutory notice entitlement.

The appeal under the Organisation of Working Time Act 1997 fails as the appellant was in receipt of all his entitlements.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)