

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE -*Appellant*

CASE NO.
RP266/2011

against
EMPLOYER -*Respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan B.L.

Members: Mr J. Horan
Mr N. Dowling

heard this appeal at Wexford on 6th July 2012

Representation:

Appellant: The appellant's uncle

Respondent: Administrative Officer in the respondent's Human Resources

The decision of the Tribunal was as follows:

The appellant was employed with the respondent on a series of fixed-term contracts from the time of June 2007 through to December 2009. It was the respondent's case that the appellant was not entitled to a redundancy payment upon the termination of his employment, by virtue of the fact that he was employed on fixed-term contracts each with a specified time period.

Determination:

Having considered the evidence adduced at the hearing and applying the relevant legislation the Tribunal determines as follows:-

Part II of the *Redundancy Payment Act 1967*, which deals with an employee's right to a redundancy lump sum provides at section 7:-

"7.—(1) An employee, if he is dismissed by his employer by reason of redundancy or is laid off or kept on short-time for the minimum period, shall, subject to this Act, be entitled to the payment of moneys which shall be known (and are in this Act referred to) as redundancy payment". This is subject to the proviso that the appellant was in insurable

employment under the Social Welfare Acts during the relevant period. The relevant period is currently 104 weeks.

Section 9 of the Act of 1967, as amended by section 6 of the *Redundancy Payments Act 2003* provides:-

“9.—(1) For the purposes of this Part an employee shall, subject to this Part, be taken to be dismissed by his employer if but only if—

(b) where, under the contract under which the employee is employed by the employer the employee is employed **for a fixed term** or for a specified purpose (being a purpose of such a kind that the duration of the contract was limited but was, at the time of its making, incapable of precise ascertainment), **that term expires** or that purpose ceases **without being renewed under the same or similar contract**”.

The Tribunal notes that the amendment of section 9 by the insertion of section (b) accords with the purpose of the *Protection of Employees (Fixed-Term Work) Act 2003* that a fixed-term employee shall not, in respect of his or her conditions of employment, be treated in a less favourable manner than a comparable permanent employee.

Accordingly the claimant has a right to be paid the statutory redundancy lump sum. This is a statutory entitlement and as such cannot be contractually waived or otherwise.

The lump sum entitlement under the *Redundancy Payments Acts 1967-2007* is based on the following criteria.

Date of Birth:	9 th May 1979
Date of Commencement of Employment:	11 th June 2007
Date of Termination of Employment:	31 st December 2009
Gross Weekly Pay:	€891.80

It should be noted that payments from the Social Insurance Fund are limited to a maximum sum of €600.00 per week.

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

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

