

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:  
EMPLOYEE

CASE NO.  
RP999/2011  
MN772/2011

against

EMPLOYER

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: Ms. J. McGovern BL

Members: Mr. E. Handley  
Mr. F. Keoghan

heard this case in Dublin on 15 August 2012

Representation:

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Appellant(s):

Respondent(s) :

Ms. Heather Nicholas BL instructed by Mr Michael Traynor, Gill Traynor, Solicitors,  
39-41 Sundrive Road, Dublin 12

The decision of the Tribunal was as follows:-

The appellant claimed that her employment, which commenced on 4 June 2006, ended without notice by reason of redundancy on 18 January 2011. Her gross weekly pay was €153.00.

The respondent's defence stated that the appellant had merely served an apprenticeship which had expired with the passage of time such that the respondent had no liability under redundancy or minimum notice legislation. It was argued that there had been a verbal agreement that the appellant would be an apprentice hairdresser.

In an opening statement on behalf of the appellant it was submitted that the appellant had thought that she had been an apprentice but that there had been no official record of her as an apprentice such that the appellant had no formal written acknowledgement of her having done an apprenticeship. It was argued that she had not finished on 23 December 2010 as maintained by the respondent but on 18 January 2011, that there had been no sick pay scheme for her and that her training was no paid for.

Giving sworn testimony, the appellant said that she had served for four-and-a-half years after she had been given an apprenticeship by one of the respondent's principals (VP). However, on 18 January 2011 the appellant was told that she had to be let go because there was no work. The appellant confirmed that she had never been registered as an apprentice but told the Tribunal that she had thought that she had completed her apprenticeship. She denied that she had been told that there would be no position for her after her apprenticeship but did acknowledge that she had taken six months for maternity.

The appellant said that she had received no apprenticeship documentation but that she had been told that she was on an apprenticeship.

The respondent's representative submitted that there had been a verbal agreement.

Giving sworn testimony, SB stated that she was a director of the respondent and that VP was her partner. SB stated that the appellant had been taken on as an apprentice four-and-a-half years previously but that sometimes it was not known if the apprenticeship would last one, two or more years. The appellant had gone out on six months maternity leave after which SB asked her to finish her apprenticeship. The appellant had said that she liked it at the respondent.

SB told the Tribunal that the appellant's part-time work was not enough for her to be fully qualified. It was quiet after Christmas 2010. It was felt that they could not go on indefinitely. The respondent thought that the appellant got other work to suit her.

When asked about her responsibility as a mentor, SB said that she did not have any formal documentation in place showing the claimant was an apprentice.

SB accepted that the appellant had not been given written terms and conditions after starting with the respondent saying that she and the appellant had trusted each other and that she (SB) would sign whatever document was required concerning the apprenticeship at the end of the apprenticeship.

No documents confirming any apprenticeship were ever completed for the claimant save for a letter directed to Social Welfare.

**Determination:**

Under the Redundancy Payments Acts, 1967 to 2007, the Tribunal, having carefully considered the evidence adduced, finds that the appellant was an employee of the respondent whose post was made redundant and that she is entitled to a redundancy lump sum based on the following details:

Date of birth:	28 October 1987
Date of commencement:	04 June 2006
Date of termination:	18 January 2011
Gross weekly pay:	€153.00

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

Allowing the claim lodged under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, the Tribunal awards the appellant the sum of €306.00 (this amount being equivalent to two weeks' gross pay at €153.00 per week) under the said legislation.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_  
(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

