

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE – claimant

CASE NO.
UD1030/2011
RP1390/2011
MN1152/2011

against
EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
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 P McGrath BL

Members: Mr D Winston
Mr N Dowling

heard this claim at Dublin on 15th October 2012

Representation:

Claimant(s):
Respondent(s): No appearance or representation

The determination of the Tribunal was as follows:-

The Tribunal notes that the respondent company has gone into liquidation. There was no appearance by or on behalf of the Liquidator. The Tribunal is satisfied that the Liquidator was on notice of the hearing.

The claimant gave evidence that his employment commenced on 5 October 2005. He worked as a packer for a processed meats business. The employment was uneventful until 22 March 2011 when the manager called all the five employees together. He told them that the company was bankrupt and that they should not come to work again. The manager issued the staff with blank RP50 redundancy claim forms and told them to call the Liquidator. The claimant did not receive any payment in lieu of notice. He understood that the company continued to operate. The company was not put into liquidation until 18 July 2011.

The claimant contacted the Liquidator who signed the blank RP50 form. The claimant got assistance to fill in the form and submitted it to the Redundancy Payments Unit. He received a redundancy payment from the Redundancy Payments Unit on 14 June 2012.

The claimant's representative contended that the claimant should have remained in his employment until the Liquidator was appointed.

Determination:

The claimant gave uncontested evidence that he was dismissed on 22 March 2011 by reason of a Liquidator having been appointed. The claimant in evidence demonstrated that the Liquidator had not been appointed and in fact would not be appointed until 18 July 2011 as per the Companies Registration Office.

The claimant has given evidence which has not been challenged and the Tribunal therefore accepts that he should have been allowed to continue in the workplace from the 22 March 2011 to 18 July 2011 as the workplace was still wholly operational.

The Tribunal accepts that the claimant was unfairly dismissed in March 2011 though he would have been made redundant in July 2011 in the ordinary way. Accordingly, the Tribunal awards the claimant €5,936.00 (five thousand, nine hundred and thirty-six euro) under the Unfair Dismissals Acts, 1977 to 2007, being equal to 16 weeks' pay at a rate of €371.00 per week.

The Tribunal awards the claimant €1,484.00 (one thousand, four hundred and eighty-four euro) in respect of four weeks' pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

The appeal under the Redundancy Payments Acts, 1967 to 2007, is dismissed in circumstances where it has already been paid.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)