

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYER *-appellant*

CASE NO.
UD771/2011
PW146/2011

against the recommendation of the Rights Commissioner in the case of:
EMPLOYEE *-respondent*

To under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007
PAYMENT OF WAGES ACT, 1991**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr N. Russell

Members: Mr J. Browne
 Mr F. Dorgan

heard this appeal at Wexford on 11th October 2012

Representation:

Appellant: No appearance or representation on behalf of the appellant.

Respondent: In person

The determination of the Tribunal was as follows:

This appeal came before the Tribunal by way of an employer (the appellant) appealing against a decision and recommendation of a Rights Commissioner under the Unfair Dismissals Acts, 1977 to 2007 and the Payment of Wages Act, 1991 (references: r-095158-ud-10-TB and r-093933-pw-10-TB). Neither the employer nor a representative on its behalf attended the hearing.

The employee gave evidence that he commenced work with the company in January 2007 as a mini-bus driver. The employment was uneventful until he was asked to attend a meeting on 4 December 2009 at which it was announced that the company was closing from that date, as there was no work. The employee subsequently received a P45.

However, it was the employee's case that the company continues to operate and that the other employees continue to work for the company. The employee gave evidence of loss and efforts to mitigate that loss.

A witness gave supporting evidence on behalf of the employee.

Determination:

Having heard the uncontested evidence of the employee and his supporting witness, the Tribunal is satisfied that there was no justification for the termination of the employee's employment and that his employer's actions in this regard were unfair.

Having considered the matter carefully, the Tribunal awards the employee the sum of €22,490 by way of compensation in respect of his unfair dismissal thus varying the decision of the Rights Commissioner under the Unfair Dismissals Acts, 1977 to 2007 (reference: r-095158-ud-10-TB)

The Tribunal upholds the Rights Commissioner's decision (reference: r-093933-pw-10-TB) under the Payment of Wages Act, 1991 to award the employee the sums of €950 and €450 in respect of pay owing for notice, two days holidays and three public holidays.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)