

## EMPLOYMENT APPEALS TRIBUNAL

**APPEAL(S) OF:**

EMPLOYEE

*-appellant*

**CASE NO.**

RP1863/2011

MN1493/2011

against

EMPLOYER

*-respondent*

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: Mr N. Russell

Members: Mr J. Browne  
Mr F. Dorgan

heard this appeal at Wexford on 11th October 2012

**Representation:**

Appellant: REP

Respondent: In person

**The decision of the Tribunal was as follows:**

The appellant gave evidence with the assistance of an interpreter provided by the Tribunal. The appellant's T1A form was received by the Tribunal on 29 June 2011. The date of termination on the form was stated as April 2010. It was the appellant's case that he did not receive a P45 until March 2011 and it was only then that he realised his employment was terminated.

The parties were in agreement that the appellant had contacted the respondent seeking work in May 2010, at which time the respondent did not have work to offer the appellant.

The dispute between the parties arose in relation to whether or not the appellant was dismissed or had left the employment of his own volition. It was the respondent's case that in January 2010 he was informed by the appellant that he was returning to Poland to be with his family. The respondent assisted the appellant with booking a one-way ticket to Poland. A former employee gave supporting evidence that the appellant had told him he was leaving to return to Poland, as work was plentiful there due to the approach of the European Championships. A week later the appellant had departed.

It was the appellant's case that he was informed by the respondent that there was no further work available. He confirmed that he went to Poland in February 2010 but for a medical procedure and not for work. The respondent did not know of the appellant's medical problem.

**Determination:**

On his own evidence, the appellant was aware under no uncertain terms that he no longer worked for the respondent from May 2010.

No plausible explanation was given to the Tribunal as to why he did not initiate his claim for a redundancy payment within the stipulated 52 week period. In those circumstances, the Tribunal refused to extend time and proceeded to deal with the remaining claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

On balance, the Tribunal is satisfied that the appellant left his employment of his own volition and was not dismissed. Accordingly the claim for minimum notice fails.

Sealed with the Seal of the  
Employment Appeals Tribunal

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