

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE

- appellant

CASE NO.
TE249/2011
PW376/2011

against the recommendation of the Rights Commissioner in the case of:
EMPLOYER

- respondent

under

PAYMENT OF WAGES ACT, 1991 TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms F. Crawford B.L.

Members: Mr M. Noone
Ms. E. Brezina

heard this appeal at Dublin on 11th September 2012

Representation:

Appellant(s) : Mr. Blazej Nowak, Polish Consultancy Enterprise, 107 Amiens Street, Dublin 1

Respondent(s) : Ms Ruth Mylatt BL instructed by:
Masion Hayes Curran, Solicitors, South Bank House, Barrow Street, Dublin 4

These appeals came before the Tribunal by way of an employee (the appellant) appealing against the decision of a Rights Commissioner under the Payment of Wages Act, 1991 and the Terms of Employment (Information) Act, 1994-2001 (references: r-106340-pw-11EH and r-106342-te-11/EH)

The decision of the Tribunal was as follows:-

At the outset the appeal under the Payment of Wages Act, 1991 was withdrawn.

Background:

The appellant was employed as a General Operative from June 25th 2007 to February 17th 2011. He claims that the respondent in the respondent is in breach of Section 3 of the Act.

Appellant's Position:

The appellant claims that he did not receive a written statement of his terms and conditions of employment as is required by Section 3 of the Act. He stated he was given a document in late 2010 but it did not comply with requirements of Section 3 of this Act as it did not refer to the

national minimum wage, rest breaks, sick pay and the Registered Employment Agreement (REA) of 1981 and 1988.

Respondent's Position:

The respondent stated that the appellant was issued with a written statement of employment some weeks after his appointment. The letter submitted to the Tribunal was dated June 25th 2007. It stated that the appellant refused to sign it for some time. He did sign it eventually.

Determination:

There was very conflicting evidence adduced in this case and two letters dated three years apart and were different in layout and directors names stated on the letterheads. In this case the Tribunal sides with the evidence adduced by the respondent.

Accordingly, the appeal under the Terms of Employment (Information) Act 1994-2001 fails.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____
(Sgd.) _____
(CHAIRMAN)