

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE
- *Appellant*

CASE NO.
PW335/2011
TE204/2011

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 P. McGrath B.L.
Members: Mr. L. Tobin
Mr J. Jordan

heard this appeal at Naas on 22nd October 2012

Representation:

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

Respondent: Mr Michael McGrath, IBEC, Confederation House, 84/86 Lower Baggot Street, Dublin 2

The decision of the Tribunal was as follows:-

This case came before the Tribunal by way of an employee appealing the decision of the Rights Commissioner r-105258-pw-10/JT and r-105240-te-10/JT.

The Tribunal heard conflicting evidence from both parties in respect of the duration of the appellant's employment with the respondent company. The respondent told the Tribunal that the appellant was an employee of the respondent company for less than thirteen weeks and therefore did not have an entitlement to minimum notice. The appellant told the Tribunal that he commenced employment with the respondent company on 2nd October 2010 and maintained that his P60 showed thirteen weeks insurable employment but the respondent explained that one of those weeks was in respect of payment of outstanding holiday pay accrued in the course of his employment. The appellant's last day of work with the respondent company was Tuesday 21st December 2010.

Both parties agreed that the appellant was in receipt of a contract of employment in respect of his employment with the respondent company. The appellant told the Tribunal that the contract

did not contain all particulars as required by the Terms of Employment (Information) Act, 1994.

Determination

Based on the evidence adduced at the hearing the Tribunal upholds the decision of the Rights Commissioner ref: r-105258-pw-10/JT and r-105240-te-10/JT. Accordingly, the appeals under the Payment of Wages Act, 1991 and Terms of Employment (Information) Act, 1994 and 2001 fail.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)