

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE

CASE NO.
MN1395/2011
RP1715/2011

against
EMPLOYER

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr R. Maguire, B.L.

Members: Mr A. O'Mara
Ms M. Mulcahy

heard this appeal at Dublin on 23rd August 2012

Representation:

Appellant: Patrick Tallon & Company, Solicitors, The Haymarket, Drogheda, Co Louth

Respondent: Carl O'Mahony & Co., Solicitors, Parliament Building, 1 Sullivan's Quay, Cork

The decision of the Tribunal was as follows:-

Claimant's case:

The claimant SM gave evidence that a meeting was called by the respondent in early April 2011. The respondent said they could no longer afford to pay employees, there was alternative work in the UK and a possibility of redundancies. The claimant's supervisor and a director FD advised him of his redundancy on 29th April 2011. The claimant was handed his RP50 in the office by FD and received his redundancy cheque at the same time. SM lodged the cheque to his bank and it was returned "refer to drawer". He received a letter from the respondent company suggesting that the redundancy was an error and asking him to return to work or sign an alternative RP50 with revised dates and lump sum. He no longer had any trust in the respondent and sought legal advice. SM is working in the UK since April of 2012.

Respondent's case:

MM managing director of the respondent company gave evidence that he only became aware of the situation on 5th or 6th May 2011. He immediately rang the claimant to apologise and told him he still had a job as a general operative with the company. MM wasn't sure what FD had done. After

checking the RP50 MM discovered it was incorrect, he issued a new one and advised the claimant that he wanted him to work his notice period. MM said that he “smelled a rat”. FD resigned a few months later and is currently working in the UK also. The respondent said that the claimant is working for him on a UK project.

Under cross examination MM said that FD was entitled to sign a cheque and was a signatory on the cheque book.

Determination:

The Tribunal finds that a redundancy situation existed in the company and that FD had the authority to decide to make the claimant redundant which he duly did.

Consequently, the Tribunal finds that the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Birth:	22 April 1975
Date of Commencement:	12 September 2005
Date of Termination:	29 April 2011
Gross Weekly Pay:	€650.91

The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, succeeds and the Tribunal awards the appellant the sum of €2,603.64, this being four weeks gross pay as compensation in lieu of notice.

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)