

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO. TE100/2011

EMPLOYEE

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

EMPLOYER

under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms E. Kearney

Members: Mr. W. O'Carroll
Ms H. Henry

heard this appeal at Ennis on 19th September 2012

Representation:

Appellant:

Respondent:

This case came before the Tribunal by way of an employer appeal of the Rights Commissioner Recommendation **ref: r-097387-te-10/pob**. The appellant will be hereinafter referred to as the employer and the respondent the employee.

Preliminary Issue

The employee referred her claim under the Terms of Employment (Information) Act 1994 to the Rights Commissioner. The Rights Commissioner wrote to both parties on the 24th of November 2010 giving notice that the hearing would take place on *'Monday the 11th of January 2011.'* In 2011 the 10th of January was a Monday and the 11th of January was a Tuesday. Due to the confusion in dates on the notice the employer did not attend the Rights Commissioner hearing. The employee rang the Rights Commissioner's office in advance and notified them of the error and clarified the date of hearing. Without contacting the employer to clarify the date the Rights Commissioner's Recommendation states, *'The respondent was notified of the date, time and location of the Hearing but was not present.'*

The employer made the application that the Rights Commissioner Recommendation is void as the notice was not served correctly and therefore the Tribunal have no jurisdiction to hear an appeal. The employer submitted case law to support his application.

Determination

The Tribunal, having carefully considered the submissions made on behalf of both parties, find that it is clear that the official notification of hearing document sent to the appellant was defective, and therefore considers that the subsequent recommendation made was void. Accordingly the Tribunal have no jurisdiction to hear this appeal, and it is thereby dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)