

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE – *appellant*

CASE NO.
RP2544/2010

against
EMPLOYER – *respondent 1*
EMPLOYER – *respondent 2*
EMPLOYER – *respondent 3*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr P O'Leary BL

Members: Mr M Carr
Mr O Nulty

heard this appeal at Drogheda on 11th October 2011 and 7th November 2012

Representation:

Appellant(s) : In person

Respondent(s) : In person

As dismissal was in dispute the claimant gave evidence first.

The decision of the Tribunal was as follows:-

Appellant's Case:

The appellant gave evidence. He was employed as a manager by the respondents who supply and sell oil. In early 2009 some of his paycheques were refused. In March 2009 he was forced to take a 20% pay cut which he was told would only last three months. In July 2009 he asked about his salary and was asked to take a further 20% pay cut. He was told that if he did not agree his position would be made redundant.

On 30 October 2009 he received a letter from respondent 1 stating that he was being laid off with immediate effect. He did not have a copy of the letter. He acknowledged the respondent's letter on 2 November 2009 via a colleague's computer. He was owed three month's salary at that time. He was paid his outstanding wages by Christmas 2009.

In January 2010 he asked respondent 1 if he could offer him thirteen weeks' continuous work. The respondent said he could not at that time. He sent an RP9 form to the respondent in mid-late January 2010. He did not get any reply.

During cross-examination the claimant stated that he had come to the office on 2 November 2009 to seek his outstanding wages. He disputed that he asked to be laid off in order to help his wife in her boutique. It was a ladies boutique. He did not work in the shop. He carried out maintenance in the evenings.

The first named respondent gave evidence. He stated that the appellant asked to be laid off so he could help his wife with her shop in the run up to Christmas. The lay-off was to be reviewed in January 2010. He met the appellant regularly to pay him his outstanding wages. They spoke a couple of times in January but the appellant did not seem interested in coming back to work. The appellant instigated the contact. He did not replace the appellant. He heard the appellant got another job. He did not receive a form RP9 from the appellant.

Determination:

Having heard all of the evidence the Tribunal, on balance of probabilities, prefers the evidence of the appellant. Accordingly, the Tribunal is satisfied that a redundancy situation occurred and that the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following information:

Date of birth:	29 December 1961
Date of commencement:	6 September 2004
Date of termination:	14 February 2010
Last day worked:	30 October 2009
Weekly gross pay:	€884.67

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period. It should be noted that a statutory weekly ceiling of €600.00 applies to payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)