

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE *-appellant*

CASE NO.

RP2679/2011

against
EMPLOYER *-respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr L. Ó Catháin

Members: Mr J. Hennessy
Ms S. Kelly

heard this appeal at Waterford on 30th November 2012

Representation:

Appellant: In Person

Respondent: A director of the company

The decision of the Tribunal was as follows:

It was agreed that the appellant commenced employment with the respondent on the 6th November 2006 and that he worked full-time hours until 2nd January 2009. At that time the appellant and his colleagues were placed on short time.

It was the director's evidence that additional work became available and he informed the appellant that he should now inform the local social welfare office of this fact. However, the appellant refused to do this. The director told the appellant that he would not provide him with work until he had notified the local social welfare office that there was now more work available to him.

The next contact from the appellant was when he was approached by the appellant and asked to complete paperwork to enable the appellant to receive a redundancy payment. The director refused to complete the paperwork as work was available but the appellant had refused it.

It was the appellant's case that he was informed by the director in November 2010 that there was no further work available. He subsequently provided the director with an RP9 form on the 21st October 2011. The director had initially stated that he would complete the paperwork but

then he contacted the appellant on 25th October 2011 to say that he would not complete it. The appellant refuted that he had refused work in order to continue receiving social welfare payments.

Determination:

There was a clear conflict of evidence in this case. However, on the balance of probabilities the Tribunal prefers the evidence of the director and accepts that additional work was offered to the appellant and that a redundancy situation did not exist at that time. Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2007, fails.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)