

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE *-appellant A*

CASE NO.
RP2640/2011
MN2088/2011
WT820/2011

EMPLOYEE *-appellant B*

RP2641/2011
MN2089/2011
WT821/2011

EMPLOYEE *-appellant C*

RP2642/2011
MN2090/2011
WT822/2011

EMPLOYEE *-appellant D*

RP2643/2011
MN2091/2011
WT823/2011

against

EMPLOYER *-respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997

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: Mr. Dermot Wall, Clonmel Computing Services, "St Jude's",
Heywood Road, Clonmel, Co Tipperary

Respondent: There was no appearance or representation on behalf of the respondent.

The decision of the Tribunal was as follows:

At the outset of the hearing, the claims brought by the appellants under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 and the Organisation of Working Time Act, 1997, were withdrawn.

It was the appellants' case that the respondent company employed them as sales and service technicians. On the 6th October 2010 the appellants were informed by a director of the respondent company that he had sold the business the previous evening.

The holders of a similar franchise in Cork purchased the business and continued to provide the same service. The respondent's employees were employed by the new business but were informed that staff rights and entitlements had not transferred. In support of this the appellants stated that the respondent company had completed RP50s on their behalf but had not actually paid them redundancy. Therefore, the appellants were seeking a redundancy payment for their period of employment with the respondent. The appellants received a P45 from the respondent company.

The appellants commenced working in the new business the following day (7th October 2010) and continue working there to date, carrying out the same duties as before the transfer.

Determination:

Having considered the evidence in this case, the Tribunal finds that a transfer of undertakings situation arose and that the appellants' employment continued uninterrupted and in the same manner as before the transfer. In such circumstances the appellants' employment rights and entitlements are protected by the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003. Therefore, a redundancy claim does not arise in relation to their employment with the respondent. The appeals therefore under the Redundancy Payments Acts, 1967 to 2007, must fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)