

EMPLOYMENT APPEALS TRIBUNAL

COMPLAINT(S) OF:
EMPLOYEE-*appellant*

CASE NO.
I1/2012

against the decision of The Minister of Social Protection
in the case of :

EMPLOYER - *respondent*

under

PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) ACTS, 1984 TO 2004

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Mr. M. Flood
Mr D. Thomas

heard this complaint at Dublin on 18th December 2012

Representation:

Complainant : Mr John Murphy, SIPTU, Utilities & Construction Branch,
Liberty Hall, Dublin 1

Respondent(s) : H.E.O. Insolvency Payments Section, Department Of Social
Protection, Block C Floor 3 Earlsfort Centre, Lower Hatch
Street, Dublin 2

Determination

This is an appeal from the decision of the Minister under the Act to make a payment of only €9,474 in respect of an award under the Unfair Dismissals Acts 1977 to 2007 of €15,000. That lower figure was arrived at by applying a cap of €600 per week instead of the claimant's gross pay of €950 per week.

The Rights Commissioner finding is interpreted by the Tribunal as being based on a net weekly pay of €730 not on a gross weekly figure of €950, and this was carried forward to the Tribunal appeal.

The appellant's representative agreed that the payments from the Social Insurance Fund would be subject to a cap of €600 per week, but argued that the calculation should be different.

The Tribunal therefore varies the calculation made by the Department of Social Protection by substituting a divisor of €730 for the figure of €950 arriving at a figure of €12,329. Allowing credit for the sum of €9474 already paid the Tribunal makes an award in favour of the appellant of €2855.

The Tribunal notes that the previous award and this determination are based on payments which were already net of tax.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)