

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.
RP1173/2011
MN969/2011

EMPLOYEE - *appellant*

Against

EMPLOYER - *Respondent*

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005 REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. McGrath B.L.
Members: Mr. R. Prole
Mr A. Butler

heard this appeal at Naas on 29th November 2012

Representation:

Appellant: Mr Blazej Nowak, c/o Mr. Pdraig Murphy, Solicitor, 54 South William Street, Dublin 2

Respondent: Mr Michael O'Sullivan, ARRA HRD Ltd, Castlelost West, Rochfortbridge, Co. Westmeath

The decision of the Tribunal was as follows:-

The appellant was put on a four week lay off from the 1st to the 24th of February 2011. He was notified of this planned lay off on the 28th of January 2011.

Immediately on getting this notification the appellant made enquiries about whether this is a redundancy situation. This was denied by the company who confirmed through the Operations Director that he would be contacted within four weeks and if they didn't get the anticipated work they would have no difficulty with making him formally redundant.

The employer was quite clear that it would contact the appellant and confirm with him whether or not he could resume his employment.

For reasons unexplained the company never contacted the appellant for the purpose of inviting him back to work. Consequently some six weeks after the lay off the appellant was entitled to give his notice of his intention to claim his redundancy payment pursuant to section 12.

The employer failed thereafter to formally notify the appellant that it had the requisite thirteen weeks employment necessary to disentitle the appellant from succeeding in his redundancy application.

Determination

In these circumstances the Tribunal finds that the appellant is entitled to a statutory redundancy payment under the Redundancy Payments Acts 1967 to 2007 based on the following criteria:

Date of Birth:	17 th October 1979
Date of Commencement:	08 th November 2007
Date of Termination:	05 th April 2011
Gross Pay:	€560

This award is made subject to the appellant having been in employment which is insurable for all purposes under the relevant social welfare acts.

In circumstances where the appellant served notice of his intention to claim a redundancy payment the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 must fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)