

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:	CASE NO.
EMPLOYEE 1	PW169/2011
EMPLOYEE 2	PW170/2011
EMPLOYEE 3	PW171/2011
EMPLOYEE 4	PW172/2011
EMPLOYEE 5	PW173/2011
EMPLOYEE 6	PW174/2011

against the recommendation of the Rights Commissioner in the case of:

EMPLOYER

under

### PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms E. Kearney B.L.

Members: Mr J. Hennessy  
Mr F. Dorgan

heard this appeal at Thurles on 9th November 2012

Representation:

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Appellants: Mr Ger. Kennedy, SIPTU, 4 Church Street, St John's Square, Limerick

Respondent: Ms Jacqueline Nix, St. Joseph's Hospital, H.R. Department,  
Mulgrave Street, Limerick

These appeals came before the Tribunal whereby the employees (the appellants) appealed the decisions of the Rights Commissioner under the Payment of Wages Act, 1991, (refs. r-089015-pw-09/GC, r-089022-pw-09/GC, r-089026-pw-09/GC, r-089028-pw-09/GC, r-089029-pw-09/GC and r-089033-pw-09/GC).

#### **Background:**

The Tribunal had reservations in respect of their jurisdiction to hear this matter with regard to the time frame set out in the Payment of Wages Act 1991. However, prior to determining same, the Tribunal heard sworn evidence from both representatives.

## Determination

Section 7.2 (b) of the Payment of Wages Act, 1991, provides:

“An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the date on which the decision to which it relates was communicated to him-

(a) a notice in writing to the Tribunal containing such particulars (if any) as may be specified in regulations under subsection (3) and stating the intention of the party concerned to appeal against the decision, and

(b) a copy of the notice to the other party concerned.”

Having heard and considered the submissions of the appellants and respondent the Tribunal are satisfied that the appellant’s representative did not provide evidence that the appellants had complied with S.7 (2) (b) of the Payment of Wages Act, 1991.

Given that Section 7 (2) (b) is a mandatory legislative provision, the Employment Appeals Tribunal has no discretion to disregard it, therefore it has no alternative but to find that it does not have jurisdiction to hear the appeal under the Payment of Wages Act, 1991,

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)