

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYER - *appellant*

CASE NO.
TE10/2011

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

EMPLOYEE - *respondent*

under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K. T. O'Mahony B.L.
Members: Mr D. Hegarty
Mr D. McEvoy

heard this appeal at Cork on 29th June 2012

Representation:

Appellant: in person

Respondent: no appearance by or on behalf of the respondent

This case came before the Tribunal by way of an appeal by an employer against a decision of the Rights Commissioner under the Terms of Employment (Information) Act, 1994 and 2001 (Ref – R-093439-TE-10-JOC).

Determination

The Tribunal is satisfied that all parties were on notice of the hearing.

The Tribunal considered the evidence of the appellant (the employer) and is satisfied that the claim for the period of employment referred to in the Rights Commissioner's decision was not presented in the claim by the employee prior to the Rights Commissioner's hearing on the 6 September 2010.

Section 7 (1) of the Terms of Employment (Information) Act states "*an employee may present a complaint to a rights commissioner that his or her employer has contravened section 3, 4, 5 or 6 in relation to him or her and, if he or she does so, the commissioner shall give the parties an opportunity to be heard by the commissioner and to present to the commissioner any evidence relevant to the complaint, shall give a recommendation in writing in relation to it and shall communicate the recommendation to the parties*".

The period of employment referenced in the claim presented to the Rights Commissioner was from the 11 December 2006 to 13 May 2009. The period of employment from the 23 October

2009 to the 22 January 2010 was first raised at the hearing on the 6 September 2010 and is therefore outside the statutory time limit.

The Tribunal therefore finds that the appeal by the employer succeeds thus upsetting the Rights Commissioner's decision.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)