

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.
RP2400/2011

EMPLOYEE - *Appellant*

against

EMPLOYER - *Respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr N. Russell

Members: Mr J. Browne
Mr F. Dorgan

heard this appeal at Wexford on 19th November 2012

Representation:

Appellant(s) :

Respondent(s) : Stone, Solicitors, 14 North Main Street, Wexford

The decision of the Tribunal was as follows:-

Background:

The appellant was employed as from April 30th 1994 to February 17th 2011 as a lorry driver. There was a severe decline in business.

In September 2008 he and other staff were put on a three-day working week. In October 2009 his hours were again reduced to a two-day working week. On May 6th 2010 he wrote to the Manager of the respondent company stating that he had been informed by two Directors that as a member of staff was leaving he would get extra hours on the factory floor. In January 2011 his hours were reduced to one day a week until he was let go on February 17th 2011.

He was paid a redundancy payment based on his service and on a gross pay based on a three-day week.

The appellant is claiming for a balance of a redundancy payment owed to him for his 21 years' service based on a five-day week.

The respondent is contesting the appeal.

Determination:

The Tribunal heard the agreed evidence of the parties that the Claimant was put on a 3 day week in September 2008. Further agreed evidence was given that the Claimant was put on a two day week in October 2009 but, thereafter, sought additional hours.

In the event, the Claimant's Redundancy was calculated on the basis of a 3 day week.

The Claimant's case is that he was entitled to a Redundancy Lump Sum based on the 5 day week worked prior to September 2008.

Having heard conflicting evidence the Tribunal has determined that Claimant accepted the reduced working hours and never requested a return to a full 5 day week. It is the Tribunal's Opinion that the Claimant accepted the 3 day week as his normal working week.

The Claimant expressed dissatisfaction with a reduction to a two day week in October 2009, however, his Redundancy was calculated and paid by reference to his 3 day week.

In the circumstances, the Tribunal finds that the Claimant has already received his full Redundancy Entitlement.

The claim under the Redundancy Payments Acts, 1967 to 2007 is dismissed.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)