

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.
PW145/2011

EMPLOYER *-appellant*

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

EMPLOYEE *-respondent*

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr R. Murphy
Mr G. Whyte

heard this appeal at Dublin on 27th December 2012

Representation:

Appellant: In Person

Respondent: Mr. Dermuid Murphy B.L. instructed by,
Maguire McClafferty, Solicitors, 8 Ontario Terrace, Portobello Bridge, Dublin 6

This case came before the Tribunal by way of an employer appeal of the Rights Commissioner decision **ref: r-095544-pw-10/JC** under the Payment of Wages Act, 1991. As this is an employer appeal the appellant will be herein after referred to as the employer and the respondent, the employee.

Preliminary Issue

The Rights Commissioner decision is dated the 14th of February 2011. The Tribunal received notification of the employer's appeal on the 24th of March 2011. The employee submits that they did not receive the required notification of the appeal from the company as per Section 7 (2) (b) of the Payment of Wages Act, 1991.

The employer produced a copy of a letter sent to the employee's representative on the 24th of March 2011 notifying them of the appeal; they dispute receiving this letter. The employer is not aware if the notification was also sent to the employee. The employee's representative sent a letter to the employer on the 19th of May 2011 informing them that they did not receive any notification of an appeal.

Determination

The Tribunal find that the legislation concerned is very clear on the specified party to be notified of the appeal. Section 7 (2) (b) states,

*'(2) 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—
(b) a copy of the notice to the other party concerned.'*

The employer produced a copy of a letter notifying the employee's representative of the appeal. The Tribunal find that the employer failed to notify the employee who is the *'party concerned'* as per the Act. In no circumstances can the party representative be considered to be the party to the claim.

The Tribunal is not satisfied that Section 7 (2) (b) above has been complied with and therefore has no alternative but to find that it does not have jurisdiction to hear the appeal under the Payment of Wages Act, 1991, against Rights Commissioner Recommendation **ref: r-095544-pw-10/JC**.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)