

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

EMPLOYEE 1 – *appellant No 1*

EMPLOYEE 2 – *appellant No 2*

EMPLOYEE 3 – *appellant No 3*

EMPLOYEE 4 – *appellant No 4*

CASE NO.

PW393/2011

PW394/2011

PW395/2011

PW396/2011

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

EMPLOYER - *respondent*

under

### PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr. J. Reid  
Mr C. Ryan

heard this appeal at Dublin on 18th February 2013

Representation:

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Appellant(s) : Mr David O’Neill BL instructed by James Watters & Co, Solicitors, 39 Arran Quay, Dublin 7

Respondent(s) : Ms Amanda Manley, IBEC, 84/86 Lower Baggot St, Dublin 2.

This case came before the Tribunal by way of an appeal by the employees (appellants) against the decision of the Rights Commissioner (r-101844-pw10,r-101845pw-10,r-101847-pw-10,r-101848-pw-10) under the Payment of Wages Act 1991.

### Determination

The respondent is a statutory publicly funded authority established in 2000 under the aegis of

the Department of Education and Skills. The appellants are employed by the respondent as clerical officers. The Tribunal heard evidence that they were assessed as having carried out the duties of the staff officer grade and sanction was sought from the Department of Finance for re-grading to this level. The Department of Finance did not sanction any re-grading and the appellants were never employed under a contract of employment at staff officer level. In those circumstances the Tribunal find that this fact does not support a claim for unlawful deductions under the Payment of Wages Act 1991. The Tribunal upholds the decision of the Rights Commissioner.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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