

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD377/2011
RP124/2013
MN88/2013

Against

EMPLOYER

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan B.L.

Members: Mr J. Browne
Mr J. Jordan

heard this claim at Wexford on 30th August 2012 and 13th December 2012 and 31st January 2013

Representation:

Claimant: Mr Justin Cody, James Cody & Sons, Solicitors, Centaur Street, Co Carlow

Respondent: In person

The determination of the Tribunal was as follows:-

Claimant's Case:

The claimant requested that his claim under the Unfair Dismissals Acts 1977-2007 be amended to a claim under the Redundancy Payments Acts 1967-2007 and Minimum Notice and Terms of Employment Acts 1973 to 2005. The claimant also requested that the Tribunal exercise its discretion to extend time within which to make such claim under the Redundancy Payments Acts. In circumstances where the claimant was suffering from stress related illness at the material time and was unaware until the date of the hearing that his position had in fact been made redundant the Tribunal exercises its discretion to so extend time.

The claimant was employed by the respondent from 2005 to October 2009. All the employees except for the claimant and the directors had been made redundant. The claimant was kept on to assist with the removal of the production plant and machinery from the respondent company to a

purchaser in Iran. During this time the claimant continued to be employed by the company pending the finalising of arrangements in connection with the moving of the plant and machinery to Iran but he was not required to attend at the work premises. The Iran trip would take 3 months and after that there would be no work for the claimant.

The claimant who was a hard-working, conscientious and diligent worker suffered severe stress related illness as a result of the uncertainty over the Iran trip.

The respondent told the Tribunal that business had suffered as a result of the down-turn in the economy particularly in the building sector. There was no option but to close down the business and the plant and machinery used in production and the business was sold to a purchaser in Iran.

Determination:

Having considered the evidence adduced at the hearing the Tribunal is satisfied that the claimant's position would be redundant once the machinery had been installed in Iran. Accordingly, the Tribunal determines that the claimant's employment with the respondent was terminated by reason of redundancy and the claimant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

| | |
|-----------------------|-------------------------------|
| Date of Birth: | 09 th April 1973 |
| Date of Commencement: | 15 th June 2005 |
| Date of Termination: | 22 nd October 2010 |
| Gross Weekly Pay: | €1,173.07 |

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

It should be noted that a statutory weekly ceiling of €600.00 applies to payments from the Social Insurance Fund.

The Tribunal awards the claimant €4,692.28, being the equivalent of four week's pay, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)