

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYER

CASE NO.
PW314-PW315/2011

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

EMPLOYEE 1

and

EMPLOYEE 2

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Sheedy

Members: Mr. P. Casey
Mr J. Flavin

heard this appeal in Cork on 29 January 2013

Representation:

Appellant(s):
REP

Respondent(s):
No attendance or representation

The decision of the Tribunal was as follows:-

This case came to the Tribunal as an employer appeal under the Payment of Wages Act, 1991, against Rights Commissioner Decisions r-098461-pw-10JOC and r-098463-pw-10JOC in which it was found that there had been an illegal deduction from the employees' wages.

The Employer's Appeal

Community Employment pay was based on training allowances. The sponsors had no discretion regarding the rates applied to trainees while on a Community Employment Scheme. FAS directed changes in payments in line with national social welfare payments that were then implemented by the sponsors. In December 2008 FAS directed increases in participants'

payments that were applied. In December 2009 FAS directed decreases in participants' payments that were applied. Failure by the sponsoring employers to apply the decreases would result in suspension of funding and possible job losses.

The remedy sought by the employer was that training allowances remain at the current level in line with national social welfare payments.

The Employees' Defence

There was no attendance at the Tribunal hearing by or on behalf of the employees in question although hearing notices were sent to the last addresses for them that were known to the Tribunal.

Determination:

Given the employees' failure to attend the Tribunal hearing scheduled for them the Tribunal has no alternative but to allow these employer appeals under the Payment of Wages Act, 1991, and overturn Rights Commissioner Decisions r-098461-pw-10JOC and r-098463-pw-10JOC under the said legislation.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

(CHAIRMAN)