

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE - **Appellant**

RP2471/2011

against

EMPLOYER - **Respondent**

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms S. McNally

Members: Mr D. Hegarty  
Mr J. Flavin

heard this appeal at Cork on 19 February 2013

#### **Representation:**

Appellant:

In person

Respondents:

Managing Director of the respondent

The determination of the Tribunal was as follows:

The appellant was employed from 1996 to drive a truck which was based at Tivoli Docks. The employment was uneventful, with the appellant enjoying an excellent relationship with the managing director (MD).

Following the onset of the economic downturn the appellant was kept in full-time employment due to the unpredictable nature of the work such that a service could be supplied to customers at short notice. In January 2011 the respondent's major customer went into liquidation and, following a period of working for the liquidator, in April 2011 this work came to an end.

MD approached the appellant and it was common case that the appellant was given notice that the employment was coming to an end. It was the respondent's position that it was agreed with the appellant that the time was right for him to retire as he was now approaching his 69<sup>th</sup> birthday. As retirement present the appellant received a motor vehicle from MD.

**Determination:**

In circumstances where there was no written contract of employment and no agreed retirement age existing in the respondent the Tribunal cannot accept that the appellant's employment came to an end by reason of retirement. The appellant was not replaced and, accordingly, the Tribunal is satisfied that the appellant was dismissed by reason of redundancy and is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria

|                      |               |
|----------------------|---------------|
| Date of Birth        | 18 July 1942  |
| Employment commenced | 29 April 1996 |
| Employment ended     | 26 May 2011   |
| Gross weekly pay     | €600-00       |

This award is made subject to the appellant having been in insurable employment under the Social Welfare Consolidation Act, 2005 during the relevant period.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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