

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYEE - *appellant*

TE97/2010

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

EMPLOYER -*respondent*

under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J Flanagan BL

Members: Mr E Handley
Mr F Barry

heard this appeal at Dublin on 9th May 2011

Representation:

Appellant: Mr Richard Grogan, Richard Grogan & Associates, Solicitors,
16 & 17 College Green, Dublin 2

Respondent: No appearance or representation

The decision of the Tribunal was as follows:-

This case came before the Tribunal by way of an appeal by the employee against the recommendation of a Rights Commissioner r-074711-te-09/SR.

Determination

This matter was the subject of a hearing by the Rights Commissioner on 15th February 2010. The employer appeared and was represented by a solicitor. The claimant's solicitor was present but there was no appearance by the claimant or any other witness on his behalf. The Rights Commissioner was not furnished with any explanation for this non-appearance and dismissed the claim for want of prosecution.

At the hearing before the Tribunal there was no appearance by or on behalf of the employer. The secretary to the Tribunal made a telephone call to the solicitors firm which had represented the employer before the Rights Commissioner and was informed that they no longer represented the employer.

According to the Form T1B "the employee did not receive a notice under s.3 as required by law" and the employee was seeking compensation. The appellant gave uncontroverted evidence to the Tribunal that he had commenced employment in February 2005 and had initiated his claim to the Rights Commissioner on

23rd January 2009 and received a statement of terms and conditions of employment from the respondent towards the end of 2009. The Tribunal requested sight of the statement of terms and conditions. The Tribunal notes that the statement was signed and dated by a person on behalf of the employer on 3rd March 2005 and signed by the employee as being received on the same date. The Tribunal finds that the respondent had provided the appellant with a contract of employment within two months of the date of the commencement of his employment as required by law. The Tribunal therefore finds that the appellant's complaint was not well founded.

Accordingly, the Tribunal upholds the recommendation of the Rights Commissioner recommendation under the Terms of Employment (Information) Acts 1994 and 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)