

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF: EMPLOYER , , ,	CASE NO. PW163/2012 TE73/2012 WT165/2012
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against the recommendation of the Rights Commissioner in the case of:
EMPLOYEE
under

PAYMENT OF WAGES ACT, 1991 TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey BL

Members: Mr. J. Goulding
Mr. P. Trehy

heard this case in Dublin on 15 March 2013

Representation:

Appellant(s):
No legal representation

Respondent(s) :

The decision of the Tribunal was as follows:-

This case came to the Tribunal as an employer appeal against Rights Commissioner Recommendation r-112009-te-11/JT, r-112011-wt-11/JT and r-112012-pw-11 under the Terms of Employment (Information) Acts, 1994 and 2001, the Organisation of Working Time Act, 1997, and the Payment of Wages Act, 1991, respectively.

At the start of the Tribunal hearing it was submitted on behalf of AS (the employee) that the Organisation of Working Time Act, 1997, had been dealt with at the Labour Court. This was not contested by DK (principal of the employer company).

Regarding the Payment of Wages Act, 1991, it was submitted on behalf of AS that the company had not complied with Section 7 (2) (b) of the Act which required that an appeal notice under the Act be served on the other party by the appellant within six weeks of the issue of a decision

by a Rights Commissioner. DK stated that he had not known about this requirement but that he had told AS's representative as a matter of courtesy.

Regarding the Terms of Employment (Information) Acts, 1994 and 2001, DK said that the company had issued a contract to AS who had not returned it for two months.

AS's representative furnished the Tribunal with a written submission that the purported contract of employment did not comply with the terms of employment legislation e.g. that the document was dated five months after commencement although the legislation required that it be given within two months. DK countered that AS had been paid every cent that was due to her and that the company had been in full compliance. AS's representative said that the terms of employment documentation had to be signed by the employer and provided to the employee within two months but that this employer had only signed after receiving the documentation back from the employee.

When AS's representative was asked if this was somewhat technical he replied that the relevant government department gave every employer a document to download and that this employer had denied AS a fundamental social right and statutory entitlement by breaching a basic piece of very long-established legislation.

DK replied that his company had done everything with the best intentions.

Determination:

The Tribunal does not deny that the appellant employer company was open and honest but it counsels the company to ensure to comply strictly with all legislation so that no employee representative can seek redress for any breach.

The employer appeal against Rights Commissioner Recommendation r-112011-wt-11/JT by which the respondent employee was awarded the sum of €1,200.00 under the Organisation of Working Time Act, 1997, falls for want of prosecution.

The employer appeal against Rights Commissioner Recommendation r-112012-pw-11 by which the respondent employee was awarded the sum of €3,436.00 under the Payment of Wages Act, 1991, fails because it was not established to the satisfaction of the Tribunal that the employer had fully complied with the requirements of Section 7 (2) (b) of the said Act.

Regarding the employer appeal against Rights Commissioner Recommendation r-112009-te-11/JT by which the respondent employee was awarded the sum of €1,026.00 under the Terms of Employment (Information) Acts, 1994 and 2001, the Tribunal, having considered the evidence, finds it reasonable to vary the award to €200.00 (two hundred euro).

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

