

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

PW348/2011
TE217/2011

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

EMPLOYER
under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001 PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. S. McNally
Members: Mr. P. Casey
Mr. J. Flavin

heard this appeal at Cork on 6th March 2013

Representation:

Appellant:

Respondent:

No appearance by or on behalf of the respondent.

There was no appearance by or on behalf of the respondent and the Tribunal is satisfied that the respondent was properly notified of the hearing.

Appellant's case:

The appellant was employed as a Kitchen Porter in the respondent restaurant from 15th October 2007 until 16th November 2009. During this time the appellant was paid at the rate of €7.00 per hour and worked approximately 46 hours per week. The appellant contended that had he been paid in accordance with the E.R.O. applicable to restaurants he would have been paid €173.79 more per week.

The appellant was never given paid annual holidays or paid a premium for public holidays or given paid time off in lieu of these public holidays.

The appellant was given written terms and conditions of employment on 11th May 2009, almost eighteen months after he commenced employment with the respondent.

Determination:

The Tribunal considered the uncontested evidence of the appellant and finds that the appeals under the Terms of Employment (Information) Act, 1994 to 2001 and the Payment of Wages Act, 1991 are both well founded.

The appellant was paid less than the rate stipulated in the Employment Regulation Order applicable to the industry in which he was employed. He was also not paid in respect of annual holidays and public holidays. Therefore the Tribunal awards the appellant €5,903.59 under the Payment of Wages Act, 1991.

Written terms and conditions of employment were not given to the appellant within the time stipulated in the Terms of Employment (Information) Act, 1994 and 2001 and the Tribunal awards the appellant €800.00 under this Act.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)