

**EMPLOYMENT APPEALS TRIBUNAL**

**APPEAL OF:**

**CASE NO.**

EMPLOYEE

RP253/12

**- appellant**

**Against**

EMPLOYER

**- respondent**

**under**

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

(Division of Tribunal)

Chairman: Ms N. O'Carroll Kelly BL

Members: Mr. L.Tobin  
Mr. A. Butler

heard this appeal at Wicklow on 4th April 2013.

**Representation:**

Appellant:

Respondent:

The decision of the Tribunal was as follows:-

**Respondent's Case:**

The appellant commenced working for the respondent in 1997. He was temporarily laid off temporarily on 16<sup>th</sup> July 2011. At this time he was not issued with an RP9. The appellant requested his P45 in order to claim social welfare benefit. The respondent had a good working relationship with the appellant. In October 2011 the appellant purchased materials from the respondent.

In December 2011 the respondent verbally offered the appellant alternative work in a hardware shop which he owned. The offer was not put in writing to the appellant. The respondent did not discuss specifics of the alternative position on offer. The appellant declined the offer of alternative work and said that he wanted to look after his family and get the medical card.

The respondent contended that work was available for the appellant and that he was not made redundant.

**Appellant’s Case:**

The appellant commenced employment in December 1997 and was employed as a labourer. He progressed to skilled labourer. He worked a 39 hour week. He worked on construction sites. He was temporarily laid off for a 15 week period, from 27<sup>th</sup> November 2009 to 15<sup>th</sup> March 2010 and was served with a RP9 at that time.

The appellant was let go on 16<sup>th</sup> September 2011. He signed on for social welfare benefit. He was not served with an RP9 at this time. In passing the respondent mentioned that he might have work for him in his workshop. No specifics were discussed of this alternative work. He was aware of another employee working in this shop and the appellant understood he would be working behind the counter.

In December 2011 the appellant raised the issue of his redundancy entitlement with the respondent. He did not understand the process and sought advice. He served an RP77 on the respondent and subsequently asked the respondent to sign an RP50.

In February 2012 the respondent told him he was not entitled to redundancy as he was offered alternative work.

**Determination:**

The Tribunal finds that the respondent made a vague offer of alternative employment to the appellant, however, that offer did not comply with the provisions of Section 15 of the Redundancy Payments Acts, 1967. Therefore, the Tribunal finds that the appellant is entitled to a redundancy payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria:

Date of Birth:	6 <sup>th</sup> June 1978
Date of Commencement:	4 <sup>th</sup> December 1997
Date of Termination:	16 <sup>th</sup> September 2011
Gross Weekly Wage:	€434.45

This award is subject to the appellant having been in employment, which is insurable for all purposes under the Social Welfare Consolidation Act 2005.

Sealed with the Seal of the  
Employment Appeals Tribunal

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