

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
EMPLOYEE            *-appellant*

CASE NO.

PW541/2011

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

EMPLOYER            *-respondent*

under

### PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. E. Kearney B.L.

Members: Mr J. Hennessy  
              Mr F. Dorgan

heard this appeal at Thurles on 30th May 2013

#### **Representation:**

Appellant: The Financial Controller and a director of the company.

Respondent: In person

#### **Background:**

This appeal came before the Tribunal whereby the employer (the appellant) appealed the decision of a Rights Commissioner under the Payment of Wages Act, 1991 (reference: r-112208-pw-11/GC).

This matter was listed by the Tribunal to be heard simultaneously with case reference PW540/2011.

#### **Determination:**

As this is an appeal under the Payment of Wages Act, 1991, the Tribunal must be satisfied that pursuant to S.7(2)(b) a copy of the notice sent to the Tribunal was sent to the other party concerned.

This was highlighted to the appellant company at the outset of the hearing. The Tribunal gave the company the opportunity to get such proof as necessary by way of a copy of a letter etcetera for the purpose of discharging the obligation under S.7(2)(b). The company responded by declining such opportunity.

Oral evidence was heard in the circumstances and the employee produced all written correspondence received in connection with this appeal. The employee stated that he had not received correspondence from the company regarding the appeal. The Tribunal was further swayed by the fullness of documentation which the employee produced relating to the appeal.

The company's Financial Controller stated he had posted a copy of the appeal to the employee. Unfortunately, the company could not provide proof of doing so.

The Tribunal consequentially finds that it is not proven to its satisfaction that S.7(2)(b) was complied with. Therefore, the appeal is not properly before the Tribunal. In such circumstances the decision of the Rights Commissioner for the sum of €1,560 to be paid to the employee (reference: r-112208-pw-11/GC) stands.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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