

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
EMPLOYEE,  
- *appellant*

CASE NO.  
PW344/2011

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: Mr P. Hurley

Members: Mr G. Andrews  
Ms H. Henry

heard this appeal at Galway on 16th May 2013

Representation:

Appellant(s) : In person

Respondent(s) :

The decision of the Tribunal was as follows:-

This case came before the Tribunal by way of an appeal by the employee against the decision of a Rights Commissioner ref: r-102211-pw-10/GC under the Payment of Wages Act, 1991.

#### Summary of Evidence

The appellant told the Tribunal that he was employed by the respondent from November 2007 to April 2010. His evidence was that he was owed thirty nine days lodge money and was also owed for overtime hours which included Saturday working. He spoke to his manager on a number of occasions and was regularly promised that he would get paid any money owing. A number of colleagues were in a similar situation. The union of which he was not a member had sorted out the problem for his colleagues and they had received all the monies owed. The appellant believes that the respondent failed to pay him the outstanding monies as he was not represented.

The current financial controller of the respondent company said he was satisfied all monies due to the appellant had been paid. He accepted that he was not party to any discussions with unions around overtime pay but in advance of the hearing had established from the records that the appellant was not owed any further money.

### **Determination**

The Payment of Wages Act, 1991 provides in its definitions section S.1 (1) that “any payment in respect of expenses incurred by the employee in carrying out his employment” shall not be regarded as wages. The Tribunal must therefore exclude any claim for expenses including lodge money made under the Payment of Wages Act, 1991.

In relation to the overtime claim the employee has not made out a clear coherent case to support his claim that payments in respect of Saturday overtime was withheld. The appellant did not demonstrate exceptional circumstances such as might have justified a consideration of this element of the claim for an additional period of six months as provided for in Section 6(4) of the Act.

The Tribunal upholds the decision of the Rights Commissioner in respect of the overtime claim. The appeal under the Payment of Wages Act, 1991 therefore fails.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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