

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE

CASE NO.

- claimant

RP1303/2011
UD944/2011
MN1083/2011

against
EMPLOYER

- respondent

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey B.L. (*17th December 2012*)
Mr. D. Hayes B.L. (*21st May 2013*)

Members: Mr M. Carr (*17th December 2012*)
Mr. T. O'Sullivan (*21st May 2013*)
Mr J. Moore (*both dates*)

heard this claim at Drogheda on 17th December 2012
and 21st May 2013

Representation:

Claimant(s) :
Respondent(s) : Not Present or Represented

The determination of the Tribunal was as follows:-

At the outset the claim under the Unfair Dismissals Acts, 1977 to 2007 was dismissed.

Background:

The Tribunal are satisfied that the respondent were properly notified of the time and location of

the two dates set down for this hearing. No evidence was heard on the first date that the matter was listed for hearing.

The claimant was employed as a static security guard at a premises owned by M Ltd. His employment at that premises had commenced in February 2006. At the time he was employed by G Ltd. In September 2008 G Ltd. lost the contract for the provision of security for M Ltd. The claimant's employment at that time transferred to the new provider.

In June 2010 his employment came to an end, shortly before P Ltd. (the respondent in this matter) lost the contract to provide the service to M Ltd.

The Tribunal is satisfied that the claimant's employment came to an end by reason of redundancy and without being given notice. His weekly gross wages were € 426.00.

There was some confusion as to the identity of the claimant's employer. Until the last month of his employment he was paid by F Ltd. This was given as the name of his employer on his P60's. It was also given as a notation on his bank statement as to the origin of the various lodgements of wages. However, his last two fortnightly wage payments were paid into his account by P Ltd.

He was not issued with a P45 so this can be of no assistance. Nor had he ever received written terms of his employment which would have identified his employer. He always understood that he worked for SSS. He wore an SSS uniform and, when answering telephones, always identified himself as being from SSS. SSS is a trading name of P Ltd.

Further it was confirmed to the claimant's solicitor by P Ltd.'s receiver that it was P Ltd. That had a contract to provide security service to M Ltd.

The Tribunal is satisfied that, while payment of wages were made to the claimant through F Ltd., his employer was P Ltd. It was P Ltd. that had the contract to provide security services to M Ltd. and it was a P Ltd. uniform that the claimant wore as part of his employment. It seems clear that the work was being done by P Ltd.'s behalf.

Given that neither P Ltd. nor F Ltd. were represented at the hearings no explanation was given to the Tribunal in respect of why the claimant was mostly paid through F Ltd. The Tribunal is satisfied that the claimant's employer was P Ltd.

Determination:

Accordingly the Tribunal awards the claimant a redundancy lump sum payment under the Redundancy Payments Acts 1967 to 2007 based on the following:

Date of Birth:	24 July 1973
Date of commencement of employment:	14 February 2006
Date of Notice of Termination:	-----
Date of termination of employment:	4 June 2010
Gross weekly pay:	€ 426.00

Loss having been established the Tribunal awards the sum of € 1,704.00, this being four weeks gross pay, under the Minimum Notice and Terms of Employment acts, 1973 to 2005.

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)