

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

RP2751/2011
MN2167/2011

against
EMPLOYER
under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K.T. O'Mahony B.L.
Members: Mr. P. Casey
Ms. H. Kelleher

heard this appeal at Cork on 8th April 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 commenced employment with another named business on 29th April 2002 and this business later transferred to the respondent in January 2003. Subsequent to the transfer of business the appellant's terms and conditions of employment remained the same and she continued to work in the same office doing the same job as she had been doing before the transfer.

The respondent is a firm of solicitors and the principal of the firm was suspended from practicing as a solicitor by order of the High Court dated 17th June 2011. The appellant received her last pay slip dated 24th June 2011 but continued to be paid in cash by the respondent up to the week before her employment terminated on 27th September 2011.

The appellant sent an e-mail to the respondent on 20th September 2011 stating "As the practice is closed I would consider myself to be out of a job and would now request that you make me redundant". The e-mail went on to ask the respondent to come back to the appellant by Tuesday

27th September 2011 and when there was no reply to this e-mail the appellant considered that she had been made redundant from 27th September 2011. The appellant informed the respondent by e-mail dated 27th September 2011 that “I will be no longer coming to work for you from today 27th September 2011”.

Determination

Having considered the uncontested evidence of the appellant the Tribunal is satisfied that the appellant’s employment was terminated by reason of redundancy. The Tribunal is further satisfied that there was a transfer of undertakings in January 2003 from the appellant’s previous employer to the respondent. Accordingly, under the European Communities (Protection of Employees on Transfer of Undertakings) Regulations, 2003 the appellant’s employment was continuous from 29 April 2002 to the date of the termination of her employment. The Tribunal awards the appellant a lump sum redundancy payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria:

DOB	30 th July 1977
Commencement Date	29 th April 2002
Date notice received	N/A
Termination date	27 th September 2011
Gross pay	€576.93 per week

This award is made subject to the claimant having been in insurable employment, during the relevant period, in accordance with the Social Welfare Acts.

The appellant requested payment of a redundancy lump sum from her employer and no longer reported for work. In such circumstances she is not entitled to receive payment in respect of minimum notice from the respondent. Accordingly the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)