

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE – *appellant*

RP691/2012

MN618/2012

against

EMPLOYER – *respondent*

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr P. Hurley

Members: Mr P. Pierson
Ms H. Murphy

heard this appeal in Tullamore on 22nd of March 2013

Representation:

Appellant:

Respondent:

The decision of the Tribunal is as follows:

Appellant's Case

The appellant gave evidence. He started working for the respondent in September 2000 as an apprentice and he stayed on after his apprenticeship was finished. He was made redundant on 01 March 2012. He did not have a contract of employment and he never received payslips.

On 22 April 2010 his hours were reduced. He then worked a three day week. While on a three day week the appellant was available and willing to work a five day week. The appellant did not accept the three day week but he did not put his objection in writing.

When he was made redundant the appellant gave an RP50 form to the respondent, who did not

know about it but who passed it on to the accountant. The accountant disputed the appellant's pay, saying he was due a redundancy payment based on his wages for three days and not five.

The appellant's representative told the Tribunal that as the appellant did not have a contract of employment and therefore there was no unilateral right to vary his pay.

Respondent's Case

The respondent gave evidence. The appellant was a good employee. He completed his apprenticeship after 4 years. If work had been available the respondent would have given it to the appellant.

The appellant was on short time from April 2010. He worked Monday, Tuesday and Wednesday. The respondent worked with him. If there was more than 3 days' work for the appellant the respondent would tell him on the Wednesday.

2011 was a difficult year for the respondent. He had hoped to expand the business into solar panels but the grants reduced and that business declined. Instead of improving his business declined further.

The respondent accepted that the appellant was entitled to a redundancy payment. The issue was whether it would be paid on the basis of his short week or his previous full time week.

Determination:

The Tribunal carefully considered the evidence adduced in this case. Both parties accept that a redundancy situation exists. The appellant was made redundant because of a serious decline in the respondent's business.

Section 19 as amended of the Redundancy Payments Act 1967 describes how payments are calculated. It is accepted that the appellant was working a 3 day week for a period exceeding 52 weeks. The Tribunal finds that while the appellant was not happy with this situation he did accept that the respondent's business had declined significantly.

The Tribunal finds that the appellant is entitled to a redundancy lump sum based on the following information:

Date Employment Began:	19 September 2000
Date Employment Ended:	01 March 2012
Gross Weekly Wage:	€258.46

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

The case under the Minimum Notice and Terms of Employment Acts 1973 to 2005 succeeds and the appellant is awarded the sum of €1550.76 being six weeks' wages.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)