

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE,
-appellant

RP1466/2011

CASE NO.
UD414/12

MN1211/2011
WT459/2011

against
EMPLOYER
under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C
Members: Mr. W. O'Carroll
Mr. P. Trehy

heard this appeal at Tullamore on 5th December 2012

Representation:
Appellant:

Respondent:

Background:

The Tribunal heard evidence from the respondent and the claimant. The respondent is a petrol station and shop. A car wash was opened by the respondent. The claimant was employed to work in the car wash area. The respondent decided to license the car wash and the claimant was involved in the situation. The manager took over the license of the car wash. According to the respondent the claimant agreed to the changeover. It was argued by both sides as to whether a transfer of undertaking occurred or not. The Tribunal heard copious other evidence from both parties as to the work done by the claimant.

Determination:

The Tribunal finds that when the respondent ceased to carry on the car wash side of the business for the purpose of which the claimant was employed there, that the claimant's position was redundant. accordingly the claim under the Redundancy Payments Acts 1967 to 2007 succeeds.

1. The claimant was dismissed by reason of redundancy. The appellant is entitled to a redundancy payment based on:

Date of Birth: 04th April 1980

Service from: 04th June 2007 to 11th February 2011

Normal weekly remuneration: €627.00

Non-reckonable service: Nil

Amount of redundancy payment: €5,040.00

A ceiling of €600 applies to any payments from the Social Insurance Fund and this award is subject to the claimant having been in employment, which is insurable for all purposes under the Social Welfare Consolidation Act 2005.

2. The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005 fails as the Tribunal is satisfied that the respondent complied with the Act by keeping the claimant fully informed for several weeks that his employment would be transferred.
3. The claim under the Organisation of Working Time Act, 1997, was withdrawn.
4. The claim under the Unfair Dismissals Acts, 1977 To 2007, was withdrawn.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

