

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE – *appellant*

RP151/2012

against

EMPLOYER– *respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr P. O’Leary BL

Members: Mr P. Pierce  
Mr P. Woods

heard this appeal at Dublin on 22<sup>nd</sup> April 2013

Representation:

Appellant:

Respondent:

The decision of the Tribunal was as follows:-

The respondent conceded that a redundancy situation existed in this case. An issue arose concerning the appellant’s start date. The appellant said that his employment commenced in 1992 but the respondent had no records before 1995 when he bought the company.

#### **Appellant’s Case**

The appellant gave evidence. He started working in 1992 with a haulage business. He did continental work for the respondent during this time but the haulage business owned the truck he drove. He received instructions from the respondent’s office in Dublin.

Early in 1995 the haulage business purchased a brand new truck. The haulage business had its own yard but the appellant parked the truck he drove at his home.

When the respondent took over in November 1996 nothing changed for the appellant. No one in authority told him anything about the change. He was not given a p.45 and his terms and conditions did not change. His rate of pay did not change.

The respondent told the Tribunal that the appellant knew of the change. They had bought the truck from the haulage business and had paid a sum for the goodwill too.

### **Determination**

It was common case that a redundancy situation existed. The Tribunal finds that a transfer of undertaking did occur during the period of the appellant's employment and that therefore he is entitled to a redundancy payment under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria:

Date of Birth:	21 October 1947
Date of Commencement	06 October 1992
Date of Termination	13 May 2011
Gross weekly pay	€470.00

This award is made subject to the appellant 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)