

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYER
- *appellant*

CASE NO.
PW104/2012

UD377/2012

against the recommendation of the Rights Commissioner in the case of:
EMPLOYEE - *respondent*

under

**PAYMENT OF WAGES ACT, 1991
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr C. Corcoran B.L.

Members: Mr G. Mc Auliffe
Ms M. Maher

heard this appeal at Dublin on 18th June 2013

Representation:

Appellant(s) :

Respondent(s) :

This case came before the Tribunal by way of an appeal by the employer (*appellant*) against the recommendation/decision of the Rights Commissioner ref r-107975-ud-11/RG and ref r-107977-pw-11/RG.

The appeal under the Unfair Dismissals Acts 1977 to 2007 was withdrawn by the appellant's representative at the commencement of the hearing.

Summary of Case

The respondent's representative stated that the appellant had not given a copy of the notice of appeal of the Rights Commissioner's decision r-107977-pw-11/RG to the respondent within six

weeks of the said decision being given as required by section 7 (2) (b) of the Payment of Wages Act, 1991. Accordingly she submitted that the Tribunal had no jurisdiction to hear the appeal.

The appellant's representative stated that a copy of the notice of the appeal had been posted by ordinary and registered post to the respondent but he was not in a position to provide proof of postage to the Tribunal and did not have a certificate of postage.

Determination

The Tribunal is not satisfied that the appellant has complied with the provisions of the aforementioned section 7 (2) (b) of the Payment of Wages Act. Given that section 7 (2) (b) is a mandatory legislative provision the Tribunal has no discretion to disregard it and accordingly the Tribunal finds that it has no jurisdiction to hear the appeal. In those circumstances the decision of the Rights Commissioner is upheld.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

