

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
EMPLOYEE

CASE NO.  
RP2798/2011  
MN2224/2011

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 E. Daly B.L.

Members: Mr D. Morrison  
Ms R. Kerrigan

heard this appeal at Letterkenny on 12th April 2013

Representation:

\_\_\_\_\_

Appellant: In person

Respondent:

The decision of the Tribunal was as follows:-

#### **Background:**

It was the respondent's case that the former employees had reached retirement age and was therefore let go. It was custom and practice and part of the terms of the pension scheme but because of legal family issues the business had allowed employees to remain beyond the normal retirement age of 65.

The appellant told the Tribunal that he was approached by his employer in the yard and told that staff reductions were occurring because of a drop in sales and problems with the bank. He asked if he would go immediately and was told to stay until the end of the week. The appellant had passed his 65<sup>th</sup> birthday but thought he would be able to stay to 66 or past that, maybe doing a two or three day week.

#### **Determination**

The Tribunal carefully considered the evidence adduced. According to the Redundancy Payments Acts, a person who is dismissed, is dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to –

- (a) the fact that his employer has ceased or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or intends to cease, to carry on that business in the place where the employee was so employed, or
- (b) the fact that the requirements of that business for employees to carry out work of a particular kind in the place where he was so employed have ceased or diminished or are expected to cease or diminish, or
- (c) the fact that his employer has decided to carry on the business with fewer or no employees, whether by requiring the work for which the employee has been employed (or had been doing before his dismissal) to be done by another employee or otherwise

The Tribunal is satisfied that the appellant in this case was not dismissed for any of the reasons listed above and that his dismissal was based on retirement age. The Tribunal finds that a redundancy situation did not exist. Therefore the appeal under the Redundancy Payments Acts fails.

The appellant did not receive any notice entitlement. Pursuant to his claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, the Tribunal awards the sum of €2,442.48 being the equivalent to 6 weeks' notice.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

