

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE (*appellant 1*)

CASE NO.
RP2791/2011

MN2216/2011

EMPLOYEE
(*appellant 2*)

RP2799/2011
MN2225/2011

against
EMPLOYER
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: Ms E. Daly B.L.

Members: Mr D. Morrison
Ms R. Kerrigan

heard this appeal at Letterkenny on 12th April 2013

Representation:

Appellants: In person

Respondent:

Background:

It was the respondent's case that the former employees had reached retirement age and were 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.

Appellant 1 gave evidence of having reached the age of 65 and continuing to work past that date. His employer approached him one day and said "do you know you should be gone". The appellant said "ok", he knew the pension scheme existed but that it was no good.

Appellant 2 gave evidence of working full time until he was 66, following a conversation with his employer at that time he then continued to work a three day week until he was 69. He was also approached one day out of the blue and told he'd have to go. He worked until that weekend and that was it.

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 appellants' in this case, was not dismissed for any of the reasons listed above and that their 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 appellants did not receive any notice entitlement. Pursuant to their claims under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, the Tribunal awards the sum of €1,906.24 being the equivalent to 8 weeks' notice to *appellant 1* and the sum of €1871.81 being the equivalent to 8 weeks' notice to *appellant 2*.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

