

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.
RP2406/2011

EMPLOYEE *-appellant*

against

EMPLOYER *-respondent*

EMPLOYER *-respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan B.L.

Members: Mr. B. Kealy
Mr. G. Whyte

heard this appeal at Dublin on 14th February 2013

Representation:

Appellant: In person

Respondent: REP

Determination:

Having considered the evidence adduced at the hearing, the Tribunal finds that the appellant's employment with the respondent ceased on 30th September 2010 because the respondent was closing the business due to financial difficulties. The Tribunal finds that immediately on cessation of her employment with the respondent the appellant commenced carrying on the business, not as an employee, but as a self-employed independent contractor and the new tenant of the landlord.

Where there is a transfer of a tenancy if an employee of the transferor accepts before, on or within four weeks after the transfer an offer of employment by the transferee in the same place and on terms which are either the same as or are not materially less advantageous to him/her than his/her existing terms of employment the employee is not entitled to a redundancy payment.

In circumstances where the appellant ceased to be an employee it cannot be held that she was offered employment at all or on terms either the same as or are not materially less advantageous to her than her existing terms of employment. Accordingly, the appellant is entitled to a lump sum payment under the Redundancy Payments Acts 1967 to 2007, based on the following criteria:

Date of Birth: 14th June 1970

Date of Commencement: 01st October 2001

Date of Termination: 30th September 2010

Gross Weekly Wage: €270.00

This award is made subject to the appellant having being in insurable employment under the Social Welfare Acts during the relevant period.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)