

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.
RP713/2012

EMPLOYEE *-appellant*

Against

EMPLOYER *-respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. Clancy

Members: Mr T. Gill
Ms H. Murphy

heard this appeal at Ennis on 28th June 2013

Representation:

Appellant: In Person

Respondent: Ms. Cliona Kimber B.L.

Preliminary Issue

The appellant was employed as a mechanical fitter on a fixed-term contract. He commenced working for the respondent in March 1991. Each contract lasted a couple of weeks then terminated until the following year. This process repeated until the expiry of his final contract on the 11th of September 2010. Each year the respondent would contact the appellant and ask if he was interested in the job for a few weeks. In total the appellant worked for 181 weeks. The appellant expected to get another contract for 2011 and on the 24th of May 2012 when he again did not receive an offer of work he made a claim to the E.A.T. On the 24th of April 2012 he wrote to the respondent and submitted a RP9 notice to claim redundancy form. The appellant never received a notice of dismissal.

Between the appellant's last contract and making a claim to the E.A.T. he made a claim to the Labour Relations Commission regarding his status as an employee i.e. whether he was a part-time worker or employed as a seasonal worker on fixed term contracts. The case was dismissed as it was found to be out of time. The appellant had representation throughout that process.

The appellant contends that the delay in lodging his claim was due to the fact that he expected a call to return to work both in 2011 and 2012. As he turned 65 in 2012 he did not expect to get any more work with the respondent.

The respondent advertised the temporary positions each year; the work typically lasted between 4 to 8 weeks. There was an application form and an interview process to secure the positions. Fixed-term contracts were issued to the successful applicants. The appellant's final contract commenced on the 9th of August 2010 and expired on the 11th of September 2010. The appellant commenced proceedings in relation to his employment status against the respondent in December 2010 and had representation throughout that process.

The respondent contends that not only is the appellant not entitled to make an appeal under the Redundancy Payments Acts, 1967 to 2007 as he does not have the required 104 weeks continuous service, there are no reasonable grounds for the delay in making the appeal to the E.A.T.

Determination

The Tribunal are satisfied that the appellant had no reasonable grounds for the delay in lodging his appeal. The Tribunal have no option but to decline jurisdiction to hear this case, consequently the appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)