

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE *-appellant*

CASE NO.
RP296/2012

against
EMPLOYER *-respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. McGrath B.L.

Members: Mr F. Cunneen
Mr A. Butler

heard this appeal at Dublin on 19th June 2013

Representation:

Appellant: Mr Conor Byrne B.L instructed by,
Paul W Tracey Solicitors, 34 Westmoreland Street, Dublin 2, Ireland

Respondent: Mr Aidan Phelan, Peninsula Business Services (Ireland) Ltd, Unit 3,
Ground Floor, Block S, East Point Business Park, Dublin 3

The fact that a redundancy situation existed in the respondent is not in dispute in this case. The only issue is the gross weekly wage used to calculate the redundancy lump sum.

Appellant's Case

The appellant worked for the respondent as a receptionist from the 3rd of September 2003. The respondent is affiliated with the construction industry. The appellant worked full-time until her hours were reduced in April 2009 to a 3-day week. Her hours fluctuated during this period. The appellant was informed that this reduction in hours would be temporary. The appellant continued to work believing that her hours would return to full-time when business improved so did not request to be returned to full-time hours. The appellant's hours were further reduced in September 2011 to a 2-day week. The appellant would have accepted redundancy in 2009 but was never notified at any stage that it was an option. The appellant never received any notification of reduced hours in writing.

Respondent's Case

The appellant always understood that there was no work available for her. The respondent did not inform her of this but was aware that the appellant 'knew her rights.' The appellant never asked for her full-time hours to be re-instated. The respondent did not issue the appellant with anything in writing confirming her reduced hours as she did not want to 'inflamm the situation.' The appellant was not offered redundancy in 2009 as the respondent believed that business would improve. The respondent did not inform the appellant that any redundancy payment would be based on her current wage and not on her full-time wage.

Determination

The fact that a redundancy situation existed within the respondent is accepted in this case. The Tribunal are satisfied that the appellant did not accept the reduced hours regardless of the longevity of the situation, therefore her redundancy entitlement should be based on her full-time weekly wage.

The Tribunal notes that the appellant has received a redundancy lump sum payment of € 3,390.72, calculated based on a 2-day week.

The appeal under the Redundancy Payments Acts, 1967 to 2007 succeeds and the appellant is awarded a redundancy lump sum based on the following;

Date of Birth:	15 th June 1977
Date of Commencement:	5 th September 2003
Date of Termination:	31 st December 2011
Gross Weekly Wage:	€673.08

This award is made subject to the appellant having been in insurable employment under the relevant Social Welfare Acts during the period. Please note that there is statutory ceiling of €600.00 for all payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)