

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE (*appellant*)

CASE NO.
TE59/2012

against the recommendation of the Rights Commissioner in the case of:

EMPLOYER (*respondent*)

under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly BI

Members: Mr. A. O'Mara
Mr F. Keoghan

heard this appeal at Dublin on 21st June 2013

Representation:

Appellant(s) : Pdraig O'Donovan & Co., Solicitors, Abberley Law Centre,
High Street, Tallaght, Dublin 24

Respondent(s) : Chief State Solicitors Office, Osmond House, Little Ship
Street, Dublin 8

The decision of the Tribunal was as follows:

The Tribunal have carefully considered all of the evidence together with the documentation submitted during the hearing.

The appellant stated in evidence that he did not receive his terms of employment pursuant to Section 3 of the Terms of Employment (Information) Act after he became a member of (EMPLOYER) on the 13th September, 2007. The appellant should have been given the following information not later than two months from the commencement of his employment,

- (a) *the full names of the employer and the employee.*
- (b) *the address of the employer in the State or, where appropriate, the address of the principal place of the relevant business of the employer in the State or the registered office (within the meaning of the [Companies Act, 1963](#)),*
- (c) *the place of work or, where there is no fixed or main place of work, a statement specifying that the employee is required or permitted to work at various places,*
- (d) *the title of the job or nature of the work for which the employee is employed,*
- (e) *the date of commencement of the employee's contract of employment,*
- (f) *in the case of a temporary contract of employment, the expected duration thereof or, if*

- the contract of employment is for a fixed term, the date on which the contract expires,*
- (g) the rate or method of calculation of the employee's remuneration,*
 - (h) the length of the intervals between the times at which remuneration is paid, whether a week, a month or any other interval*
 - (i) any terms or conditions relating to hours of work (including overtime),*
 - (j) any terms or conditions relating to paid leave (other than paid sick leave*
 - (k) any terms or conditions relating to:*
 - (i) incapacity for work due to sickness or injury and paid sick leave, and*
 - (ii) Pension and pension schemes,*
 - (l) the period of notice which the employee is required to give and entitled to receive (whether by or under statute or under the terms of the employee's contract of employment) to determine the employee's contract of employment or, where this cannot be indicated when the information is given, the method for determining such periods of notice,*
 - (m) a reference to any collective agreements which directly affect the terms and conditions of the employee's employment including, where the employer is not a party to such agreements, particulars of the bodies or institutions by whom they were made.*

The Respondent conceded that the appellant did not receive his terms of employment pursuant to Section 3 (1) but argued that the exception set out in Section 3 (3) applied.

Section 3 (3) of the Act which states:

“The particulars specified in paragraphs (g), (h), (i), (j), (k) and (l) of the said subsection (1), may be given to the employee in the form of a reference to provisions of statutes or instruments made under statute or of any other laws or of any administrative provisions or collective agreements, governing those particulars which the employee has reasonable opportunities of reading during the course of the employee's employment or which are reasonably accessible to the employee in some other way”.

The Tribunal are satisfied based on all of the evidence that Section 3 (3) does apply in this instance however Section 3 (3) is only applicable to Section 3 (1) (g) – (l). It does not apply to Section 3(1) (a) – (f). The Respondent remains in breach of its obligation in that regard.

Therefore the Tribunal find in favour of the appellant and accordingly award him € 687.00.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)