

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYEE –**Appellant**

RP821/2011
MN634/2011

against

EMPLOYER –**Respondent**

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: Mr P. Wallace

Members: Mr T. L. Gill
Ms H. Murphy

heard these appeals at Galway on 13 July 2012

Representation:

Appellant:

Ms Gemma Forde, Charles Foley Solicitors,
Market Square, Gort, Co. Galway

Respondent:

In person

The determination of the Tribunal was as follows:

Determination:

The respondent is an electrical contractor who employed the appellant as a plumber to work on projects in which the respondent was involved. It was common case that the employment ended by reason of redundancy on 26 March 2010. What was in dispute between the parties was the starting date of that employment in circumstances where the respondent's position was that the appellant had insufficient service in order to qualify for a lump sum payment under the Redundancy Payments Acts.

The appellant's position was that the employment began in October 2007 whereas the respondent's position was that the employment began in January 2009. It is clear that the parties were aware of each other during the disputed period and there did not appear to be much, if any, doubt that the respondent knew exactly what the appellant was doing during that period. Despite this knowledge the respondent was not prepared to reveal to the Tribunal the identity of who he believed to be the appellant's employer during the disputed period. The Tribunal is forced to conclude, on the balance of probabilities, that the employment did begin in October 2007. Accordingly, the Tribunal finds that 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	31 July 1985
Employment commenced	20 October 2007
Employment ended	26 March 2010
Gross weekly pay	€420-00

This award is made subject to the appellant having been in insurable employment under the Social Welfare Consolidation Act, 2005 during the relevant period.

The Tribunal further awards €840-00, being two weeks' pay, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)