

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:  
Employee

CASE NO.  
UD329/2006

RP131/2006

MN182/2006

against

Employer

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2001  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2003  
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. P. O'Leary BL

Members: Mr. M. Murphy  
Mr. J. Moore

heard these claims in Navan on 13 April 2007

Representation:

\_\_\_\_\_

Appellant :

Ms. Lorna Lynch BL instructed by  
John V. Kelly & Co., Solicitors, Church Street, Cavan

Respondent :

No attendance or representation

The determination of the Tribunal was as follows:-

**Appellant's Case**

It was claimed that the appellant had been employed by the respondent from 14 April 1989 to 21 October 2005 when his employment ended without notice. The company went out of business. The appellant had been out sick from 27 April 2005. He did not establish that he had been available for work during the eight weeks that would have constituted his notice period. He sought a redundancy lump sum rather than contend that there had been an unfair dismissal.

## **Respondent's Case**

No evidence was offered by or on behalf of the respondent.

### **Determination:**

The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001, fails because the claimant had not been available for work during the eight weeks that constituted his minimum notice period due to illness and therefore had no loss.

Under the Redundancy Payments Acts, 1967 to 2003, the claimant is entitled to a redundancy lump sum based on his commencement date of 14 April 1989, his termination date of 21 October 2005, his gross weekly pay of €555.82 and his date of birth which was 25 March 1952.

By reason of the above and because the remedy of unfair dismissal and of redundancy are mutually exclusive the claim under the Unfair Dismissals Acts, 1977 to 2001, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)