

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
Employee - appellant

CASE NO.  
RP701/2008

against

Employer – respondent

&  
Employer - respondent

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr P Hurley

Members: Mr T Gill  
Mr P Clarke

heard this appeal at Loughrea on 24th March 2009

Representation:

Appellant: Cllr Bridie Willers  
Grannagh,  
Ardrahan, Co. Galway

Respondent(s): Ms Angela Grimshaw  
Peninsula Business Services (Ireland) Limited  
Unit 3, Ground Floor, Block S  
East Point Business Park, Dublin 3

The decision of the Tribunal was as follows:

Respondent's Case:

The respondent was not present at the hearing.

The respondent's representative raised a preliminary point that the named respondent was not the appellant's employer. According to the respondent's representative, in the event that the Tribunal found that the named respondent was the correct employer the respondent would pay the redundancy payment.

The respondent took over the running of the hotel in 2006 when the five-year lease with the previous management finished. The respondent signed the lease with the owner of the hotel and licence, however the owner did not sign. The respondent operated the business, but in April 2008 the Gardaí ordered the bar to be closed as the respondent was operating without a licence. The respondent's representative contended that the premises and licence owner is the correct respondent.

#### Appellant's Case

The appellant stated that the hotel where she was employed changed ownership twice while she was employed there. The last person to takeover was the above-named respondent, who took over in October 2006. Gardaí closed the bar in April 2008 and the hotel closed on 7<sup>th</sup> May 2009. The appellant was paid until 18<sup>th</sup> May 2009. The appellant met the respondent twice in the hotel car park, after the hotel had closed down, regarding outstanding payments. The respondent told the appellant that he would pay her a redundancy payment, and gave her a letter on 12<sup>th</sup> May 2008 stating that she was entitled to a redundancy payment.

#### Determination:

Having heard the uncontested evidence of the appellant and legal submissions by the respondent's representative, regarding the Transfer of Undertakings Directive, the Tribunal is unanimously of the view that there was continuity in the operation of the business in 2000 and 2006, such as to invoke the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003, and to apply its benefits. The Tribunal is of the view that a valid redundancy payment claim applies against the named respondent.

Accordingly, the Tribunal awards the appellant a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Commencement:	14 <sup>th</sup> June 2000
Date of Termination:	18 <sup>th</sup> May 2008
Gross weekly pay:	€390.00

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

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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