

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employee
- *appellant*

RP239/2008

against

Employer
- *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K. T. O'Mahony B.L.

Members: Mr. P. Casey
Mr. J. McDonnell

heard this appeal at Cork on 4th September 2008 and 1st December 2008

Representation:

Appellant: In person

Respondent: In person

The decision of the Tribunal was as follows:

The respondent attended only on the first day of hearing.

The respondent's book-keeper who keeps employee records was unable to attend the hearing because she was off work, on her doctor's advice, due to pregnancy.

Respondent's case:

The respondent undertakes carpentry contracts, mainly in new buildings. The appellant worked with the respondent from 2005. The respondent did not lay off the appellant. The respondent did not have work for a few weeks but when work became available again the director of the respondent could not contact the appellant. The director had tried both to phone him and called to his home several times. The director did not replace him but spread his work amongst other staff. The appellant was a good worker. The respondent had about nine employees two years ago but at

the date of the first hearing it only had four or five employees. The director offered the appellant work in October 2007 but the appellant was sick.

The respondent undertook to produce his records at the resumed hearing.

Claimant's case:

Around May 2007 the director told the appellant that he had only two more weeks work for him but at the end of the second week he told him that he had another week on the job. At the end of the third week the appellant asked the director for a P45, his week in hand and his redundancy payment. The director agreed to provide these but the appellant was only given his week in hand. He tried to contact the director a number of times because he needed a letter from him for Social Welfare. Eventually he got the letter from him in February 2008. He got no phone calls, voicemails or texts from the director in summer 2007. The director phoned him in October 2007 about a job, but he could not take it because he was sick at the time.

Determination:

The respondent failed to attend the resumed hearing of the case and produce the claimant's work records. The Tribunal is satisfied that the claimant was laid off due to a downturn in the work available to the respondent. When work became available again the appellant was not replaced and his work was divided among the existing workforce. The claimant's position had been made redundant several months before the respondent offered the appellant work in October 2007. The appellant is entitled to a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007, based on the following criteria:

Date of Birth	21 st September 1974
Date employment commenced	01 st April 2005
Date employment ceased	08 th June 2007
Gross weekly pay	€500.00

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)

