

## EMPLOYMENT APPEALS TRIBUNAL

**APPEAL OF:**  
EMPLOYEE

**CASE NO.**  
RP1509/2009

- *appellant*

Against

EMPLOYER

- *respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms F. Crawford B.L.

Members: Mr T. O'Grady  
Mr G. Whyte

heard this appeal at Dublin on 30th April 2010

#### **Representation:**

Appellant: In Person

Respondent: In Person

The decision of the Tribunal was as follows:-

#### **Appellant's Case**

During direct evidence the appellant told the Tribunal that on 27<sup>th</sup> March 2009, without any prior notice or warning, the respondent told him there was no more work and it would recommence in two weeks. The appellant phoned the respondent a number of times after this but could not make contact with him. He then went to the respondent's office in person and was told that there would be work for him in two weeks. Approximately six weeks later the appellant contacted the National Employment Rights Authority and completed an RP9, which he served on the respondent.

On 29<sup>th</sup> September 2009 the appellant received a phone call from the respondent's receptionist saying that there may be work. This was followed up by a letter which he received on 5<sup>th</sup> October 2009.

**Respondent's case**

The respondent's secretary (DM) told the Tribunal that she tried to contact the appellant on 12<sup>th</sup> June 2009 but could not get an answer. She then contacted the appellant in July and asked him to come back to work. On 20<sup>th</sup> August 2009, on receipt of correspondence from the Employment Appeals Tribunal, DM phoned the claimant again and asked him to come back to work. He declined.

DM told the Tribunal that when she received the RP9 she placed it on the respondent's desk. The respondent did not ask her to correspond with the appellant in relation to this.

During direct evidence, the respondent (KG) told the Tribunal that in April 2009 he spoke to the appellant and explained that several contracts had been put on hold and as a result it was necessary to lay him off. They had a meeting approximately five to six weeks later and the respondent told the appellant that he should know more in two weeks. KG tried to contact the appellant on 12<sup>th</sup> June but could not get an answer. KG told the Tribunal that he did not receive the RP9 submitted by the appellant.

**Determination:**

Based on the evidence heard from both parties the Tribunal is satisfied that after a period of lay off, the appellant did serve an RP9 on the respondent, declaring his intention to claim a redundancy lump sum payment. Accordingly, the Tribunal awards the appellant a redundancy lump sum under the Redundancy Payments Acts, 1967 to 2007 based on the following criteria:

Date of Birth:	11 <sup>th</sup> October 1981
Date of Commencement:	28 <sup>th</sup> April 2002
Date of Termination:	01 <sup>st</sup> April 2009
Rate of Pay:	€819.39

This award is subject to the appellant having been in employment, which is insurable for all purposes under the Social Welfare Consolidation Act 2005.

A ceiling of €600 per week applies to any payments from the Social Insurance Fund.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

