

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE - appellant

CASE NO.
RP965/2009

against

EMPLOYEE - respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Lucey

Members: Mr. P. Casey
Mr. D. McEvoy

heard this appeal in Ballincollig on 15 April 2010

Representation:

Appellant :

Ms. Deirdre Kennedy, David J. O'Meara & Sons, Solicitors,
Bank Place, Mallow, Co. Cork

Respondent :

No attendance or representation

The decision of the Tribunal was as follows:-

In an opening statement at the Tribunal hearing the appellant's representative said that the appellant's employment had commenced on 9 February 2006 and ended on 7 August 2008. She said that the appellant's gross weekly pay had been €595.20. A redundancy award was sought.

The appellant's representative said that in February 2006 the appellant had commenced employment as a painter with a company (hereafter referred to as E1) which had as directors two people (hereafter referred to as X and Y). However, later in 2006, X and Y were parting and Y filed a form to cease to be a director of E1. The company stayed in business and the appellant kept working. After working on Friday 29 September 2006 the appellant returned to work on Monday 2 October 2006. In January 2007 he received a contract. He learned that he had ceased to work for E1 on Friday 29 September 2006 and that, since Monday 2 October 2006, he had been working for another company which was headed by X.

Giving sworn testimony with the aid of an interpreter, the appellant said that he had not previously realised about any transfer of undertaking because, at the time of the changeover, he had continued to use the same van and the same tools for the same Mallow-based painting assignment.

However, this second company was now in liquidation and the appellant had been redundant as of 7 August 2008.

No evidence was offered by or on behalf of the respondent to contest the appellant's case.

Determination:

Under the Redundancy Payments Acts, 1967 to 2007, the Tribunal finds that the appellant is entitled to a redundancy lump sum based on the following details:

Date of birth:	29 August 1971
Date of commencement:	09 February 2006
Date of termination:	07 August 2008
Gross weekly pay:	€595.20

It should be noted that payments from the social insurance fund are limited to a maximum of €600.00 per week.

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)