

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE
- **appellant**

CASE NO.
RP2171/2010

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 D. Hegarty
Mr J. Flavin

heard this appeal in Cork on 8th April 2011

Representation:

Appellant: In person

Respondent: Mr. Barry Donohue, KPMG, Chartered Accountants, 90 South
Mall, Cork

Summary of Evidence

The appellant worked for the respondent company as a manager for six years. Due to a down turn in business he was advised that the company was looking for a new investor. He was later advised that the company was in examinership and his position could not be guaranteed. The appellant sought other employment and ultimately offered his resignation on 9th November 2009. Under the terms of his contract the notice period was one month and he was required by the respondent company to remain on garden leave until 9th December 2009.

A liquidator was appointed to the company on 27th November 2009 while the appellant was still on garden leave. The appellant maintains he was still an employee at the time of liquidation and this is his reason for seeking redundancy.

The respondent contended that the appellant resigned from his employment and a redundancy situation does not arise.

Determination

As the respondent insisted that the appellant remain on garden leave until 9th December 2009 the Tribunal finds that he was an employee on the date of the liquidation. Accordingly, the Tribunal finds that the appeal under the Redundancy Payments Acts, 1967 to 2007 is allowed and the appellant is awarded a statutory lump sum under the Acts based on the following:

Date of Birth: 29th May 1969
Date of Commencement: 3rd August 2004
Date of Termination: 27th November 2009
Gross weekly Wage: €1,332.69

A ceiling of €600.00 applies to any payments from the Social Insurance Fund and this award is subject to the claimant having been in employment, which is insurable for all purposes under the Social Welfare Consolidation Act 2005.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

