

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

CASE NO.

EMPLOYEE – **first named appellant**

PW38/2011

EMPLOYEE – **second named appellant**

PW39/2011

against the decisions of the Rights Commissioner, **R-091523-PW-10/JOC** and **R-092495-PW-10/JOC** respectively, in the case of:

EMPLOYER -**respondent**

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr K. Buckley

Members: Mr P. Casey
Mr D. McEvoy

heard these appeals at Cork on 31 August 2012

Representation:

Appellants:

Mr. Edward Smith, Independent Workers Union,
55 North Main Street, Cork

Respondent:

No appearance by or representation on behalf of the respondent

The determination of the Tribunal was as follows: -

These cases came before the Tribunal as a result of appeals by two employees (the appellants) against two decisions of the Rights Commissioner under the Payment of Wages Act, 1991 **R-091523-PW-10/JOC** and **R-092495-PW-10/JOC**, in the case of an employer (the respondent).

Determination

The respondent company was dissolved with effect from 17 August 2012 and from that time no longer had a legal personality. A now former director of the respondent informed the Tribunal in advance of the hearing that, in light of this fact, there would be no appearance by or representation of the respondent.

The appellants' positions with the respondent were subject to funding provided by FAS and, when FAS imposed reductions in that level of funding, pay cuts reflecting the level of the funding cuts were imposed on the employees of the respondent including the appellants. The contract issued to the appellants states that pay is "FAS grant". While the appellants' position was that the respondent had additional funding from alternative sources they were not able to adduce any evidence to support the veracity of what was an unsupported assertion.

The Tribunal is satisfied as the contracts provide that pay is FAS grant this must be taken to encompass both increases and reductions in the level of FAS grant. Accordingly, it follows that the claims of the appellants are not well founded; the decisions of the Rights Commissioner are upheld. Accordingly, the appeals under the Payment of Wages Act, 1991 both fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)