

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

EMPLOYEE

-claimant

WT444/2011

RP2276/2010

CASE NO.

UD1089/2011

against

EMPLOYER

-respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. MacCarthy S C

Members: Mr E. Handley

Mr. S. O'Donnell

heard this claim at Dublin on 22nd March 2012

Representation:

Claimant:

Respondent:

The Tribunal heard evidence

Determination:

It was argued on behalf of the respondent that whilst the work being done was reduced by more than fifty per cent; the respondent had provided "full work" for him, but that he failed to do the work. This distinction between "work provided" and "work done" was considered at lengths by the Tribunal.

The Tribunal also considered Section 12 of the 1967 Redundancy Payments Act, as amended, which governs the procedure to claim redundancy in respect of short time. The claimant lodged the form RP 9, which complies with section 12.

The respondent replied to the RP 9 by letter dated 17th June 2010 rather than completing part C of the RP 9. This letter in effect stated that the respondent was providing the work for him but it was his own failure to re-book customers which caused the work actually done to drop as sharply as it did.

The Tribunal always accepted that the form RP 9 is not essential, if the details are set out in a letter form. Under the Act an employer can defeat an employees' claim in respect of short time by making an offer of not less than thirteen weeks work during which there would be no short

time. This element was missing from the letter and for technical reasons the employers defence fails. We therefore find that he was entitled to redundancy; the claim under the Redundancy Payments Act 1967 to 2007 succeeds.

The appellant is entitled to a redundancy payment based on:

Date of Birth:	14 th September 1953
Service from:	25 th November 2005 to 24 th June 2010
Normal weekly remuneration:	€561.75
Non-reckonable service:	None
Amount of redundancy payment:	€5,707.38

The Tribunal having heard evidence on a preliminary point regarding the claim Unfair Dismissals Acts, 1977 To 2007, declines jurisdiction.

No case was made under the Organisation of Working Time Act, 1997.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

