

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYER - *appellant*

PW350/2011

against the recommendation of the Rights Commissioner in the case of:

EMPLOYEE - *respondent*
and

EMPLOYER - *appellant*

under

PAYMENT OF WAGES ACT, 1991

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms J. McGovern B.L.

Members: Mr T. O'Grady
Mr J. Jordan

heard this appeal at Dublin on 9th January 2013

Representation:

Appellant(s): Mr Terry Cummins, IBEC, Confederation House, 84-86 Lower
Baggot Street, Dublin 2

Respondent(s): Brendan Byrne, Unite, 15 Merrion Square, Dublin 2

The decision of the Tribunal was as follows:-

This case came before the Tribunal by way of an appeal by the employer against the decision of the rights commissioner reference r-088685-pw-09/JC dated 5th June 2010. The employer is hereinafter referred to as the appellant and the employee referred to the respondent.

Preliminary Issue

The Tribunal considered the preliminary issue in relation to the appeal not being lodged within the time frame of six weeks by the appellant and considered the documents on file and submissions. The recommendation from the rights commissioner was dated the 5th June 2010. An appeal form signed on behalf of the appellant on 22nd July 2010 was received by the Tribunal on the 4th August 2011.

Determination

Section 7 (2) of the Payment of Wages Act, 1991

“An appeal under this section shall be initiated by a party by his giving, within 6 weeks of the date on which the decision to which it relates was communicated to him

(a) A notice in writing to the tribunal containing such particulars (if any) as may be specified in regulations under *subsection* (3) and stating the intention of the party concerned to appeal against the decision, and

(b) a copy of the notice to the other party concerned”.

The Tribunal is not satisfied that the appeal was lodged in time. It is mandatory to lodge the appeal within six weeks and no discretion is allowed. The Tribunal does not have jurisdiction to hear the case. The Tribunal affirms the decision of the rights commissioner and awards the respondent compensation of €8,000.00 (net) in respect of wages properly due to him under the Company Sick Pay Scheme. The appeal by the appellant under the Payment of Wages Act, 1991 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

