

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
Employee – appellant

CASE NO.
TE93/2009

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

Employee
v
Employer – respondent

under

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J Fahy BL

Members: Mr T Gill
Mr P Clarke

heard this appeal at Loughrea on 13th January 2010

Representation:

Appellant(s): Ms Dawn Carney
Sheehan & Company, Solicitors
Augustine Court, St Augustine Street, Galway

Respondent(s): Mr. Ronnie Lawless,
IBEC
West Regional Office, Ross House, Victoria Place, Galway

This case came before the Tribunal by way of an employee appealing a recommendation of a Rights Commissioner ref: (r-067152-te-08).

The decision of the Tribunal was as follows:

The appellant gave evidence that he was invited to attend an induction meeting on May 17th 2007, in advance of commencing his employment with the respondent company on May 21st 2007. The appellant was given a copy of the staff handbook, which was gone through with a member of staff.

The appellant was also given a contract with blank spaces for him to fill in his name, job role, employment location and rate of pay. The appellant filled in the contract and signed and dated it. The staff member then asked for all the documents to be handed back. The appellant contended that he did not receive a copy of his contract until he requested it after his employment had ceased.

During cross-examination the appellant refuted the contention that he had received a copy of his contract the week following his induction meeting.

Respondent's Case:

A staff member for the respondent company gave evidence that she chaired the induction meeting that the appellant had attended. She went through the handbook and gave the new staff members a contract to fill in. She took all the documents back at the end of the meeting.

She then gave the contracts to the manager to sign and made copies for the new staff members. The originals were sent to head office. She then gave a copy of the contract to the new staff members. During cross-examination the witness stated that she could not specifically recall giving a copy to the appellant. Staff members could get a copy of the staff handbook, if they wanted one, when the contract was given back to them. The staff members signed a form at the induction meeting to say they had read and understood the handbook.

Determination:

The Tribunal heard the appellant's evidence that he did not receive a copy of his contract of employment and the respondent's witness's evidence that, while staff normally received a copy of their contract, she could not be sure in this case.

The Tribunal must prefer the evidence of the appellant and accordingly upsets the decision of the Rights Commissioner, ref: (r-067152-te-08), and awards the appellant €855.04 (eight hundred and fifty-five euro, four cent) under the Terms of Employment (Information) Act, 1994 and 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)