

# Time Limit for Appeals to the Labour Court



Richard Grogan examines the case of *Aiseiri Limited -and- Mary McCormack PTW/16/3* decision PTD163 concerning the issue of an appeal which was lodged 43 days from the date of the Rights Commissioner's decision

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The Court in this case considered the provisions of Section 18 (h) Interpretation Act, 2005. The Court also looked at the High Court case of *McGuinness -v- Armstrong Patents Limited* [1980] IIR 289 in which case *McMahon J* held that in enacting Section 11 (h) the Oireachtas had opted for a different approach than that of the well-established law in England. Whereby when a period of time prescribed by Statute is defined as a period “from” a particular event the day of the event is excluded in computing the period. In that judgment he pointed out that he would have adopted this construction but he did not see how it could be done. The Court held that as the appeal had been lodged on the 43rd day from the date of the Rights Commissioner's decision following Section 44 of the Workplace Relations Act as the appeal had to be lodged not later than 42 days from the date the decision concerned the appeal in this particular case was out of time.

This is an important judgement of the Court and confirms the very strict time limits.

Currently there have been some issues arising in relation to decisions issuing from the WRC. We are aware of cases where the date of the decision significantly predates the date that the decision is received and predates by a significant length of time the actual covering letter sending out the said decision. This may give rise to difficulties and potential applications to the Court for extension of time in exceptional circumstances going forward. It is hoped that the procedures in the WRC will be rectified to ensure that decisions issue in a timely manner after the date that they are dated. Our understanding of the procedures in the WRC is that the decision is submitted by the Adjudication Officer but is not dated.

The document is then dated and is sent out. The practice in the LRC was that the day that the decision was sent out was the day it was dated. What appears to be happening in the WRC is that documents are dated and then sent out. We have had occasion where we have received a decision which was dated after the date that we have actually received it and which is dated after the date of the covering letter.

Because of the strict time limits it is important for the WRC to get these procedures properly in place to make sure that decisions issue on the day that they are dated but in addition unfortunately practitioners are now going to have to make sure that the double check dates of decisions which are received to take account of the very strict time limits.

If a colleague gets a decision late they may not have an opportunity to get a client in to sign the appeal form. In such circumstances it would be our view that the Solicitors can sign the appeal form and if there was significant issue on times that to do a covering letter and even a hand written letter to the Labour Court attaching the decision and stating:

“The employer/employee wishes to appeal the decision in full”.

This has been accepted by the Labour Court in the past. If this is to be done it would be useful to make sure that the full appeal documentation is completed and sent in as soon as possible thereafter and, if possible, writing to the Labour Court to explain what has happened so that they are aware. It is useful now also in employment cases because of this issue arising to make sure that the Solicitor has an appropriate Power of Attorney or Authorisation from their client to sign any appeal documentation on their behalf. Such an Authorisation can be included in an engagement letter. ☐