

Labour Court 'erred in law' in road transport case, says High Court

KYRAN FITZGERALD

The High Court has concluded that the Labour Court "erred in law" in dealing with a road transport working time case involving a lorry driver for a glass firm.

The Labour Court's error had been to assume that the "apparent acceptance" by the lorry driver, of a lesser sum from his employer than that to which he was initially contractually entitled, automatically meant that this was the sum which was owed to him.

The judge went on to remit the matter to the Labour Court for further consideration, having concluded that the appellant, Andrius Babianskas, was entitled to a full determination of the issue arising before an adverse conclusion could be reached. The employer involved was First Glass.

According to Mr Justice Hunt, while the "protracted acceptance" by the appellant of the reduced figure was an "undoubted fact", it was insufficient on its own to permit the Labour Court to decide that he was liable to be paid this lower amount.

Hunt, J, observed that "the scope of an appeal to this Court against a determination of the Labour Court arises only on a point of law". In other words, the High Court cannot on its own initiative vary an award of the Labour Court.

However, the High Court "may consider whether the Labour Court wrongly took into account, or ignored a fact, or a piece of evidence".

He added that "whereas the High Court must show appropriate curial deference to the Labour Court, such deference only arises where the Court deploys its particular expertise on industrial relations issues".

"Such deference does not extend to instances where the notice party (Labour Court) deals with questions of law."

REDUCED PAYMENT

Under a written contract of employment, dated December 4, 2005, the appellant was entitled to an annual payment of €34,384, or €668.75c per week. He was paid, in fact, €554.48 weekly from that date.

The appellant asserted that he was underpaid in respect of annual leave and holidays to which he was entitled.

The Labour Court had held that the appropriate reference point for these claims was the lower amount actually received, rather than the rate specified in the contract. (see *Labour Court decision RTD152, covered in IRN 26/2015*)

DECISION

Judge Hunt concluded that "the appellant was not questioned by the representatives of either party, or members of the Labour Court on what was subsequently found to be his apparent acceptance of the adjustment in his rate of pay over an extended period".

"The question to be decided on this appeal is as to whether the appellant has identified an error of law underpinning the determination issued by the Labour Court in this case."

"The starting point is whether the appellant was initially liable to be paid the amount stipulated in the written contract, and only became liable to be paid a lesser amount if there was some enforceable variation of that contract, whether by waiver, estoppel or by subsequent or collateral agreement."
(*Andrius Babianskas v First Glass Ltd – 2016 IEHC 598*)

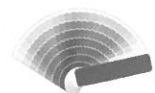
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