



An Binse Achomhairc Fostaíochta
Employment Appeals Tribunal

Employment Appeals Tribunal

Annual Report

2021

Presented to the Minister for Enterprise, Trade and Employment under
Section 39 (18) of the Redundancy Payments Acts 1967 to 2014

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Mission Statement

'To provide an inexpensive and relatively informal means for the adjudication of disputes on employment rights under the body of legislation that comes within the scope of the Tribunal.'

Chairman's Foreword

Dear Minister

I am pleased to submit to you the 54th Annual Report of the Employment Appeals Tribunal for the year 2021, in accordance with Section 39 (18) of the Redundancy Payments Acts 1967 to 2014. The Redundancy Appeals Tribunal established under that Act became known as the Employment Appeals Tribunal under the Unfair Dismissals Act, 1977 and will hereinafter be referred to as the Tribunal.

The Tribunal is an independent quasi-judicial body which derived its jurisdiction from several employment protection statutes. The major part of the Tribunal's work is to adjudicate on employment law disputes arising on the termination of the employment relationship. It also has an appellant function with regard to disputes that arise during the course of the employment relationship. However, under the Unfair Dismissal Acts 1977 to 1993 a claimant could elect to have his/her case for unfair dismissal heard in private before a Rights Commissioner or in public before the Tribunal. In the former instance an appeal lay to the Tribunal. Around 65% of claimants elected to have their unfair dismissal claim heard in public by the Tribunal. The Tribunal deals exclusively with individual employment rights disputes rather than disputes of interest.

The Tribunal's decisions are based on the sworn oral evidence, including cross examination, of the parties and witnesses. All hearings before the Tribunal are in public unless an application to have a case heard in-camera is granted.

As part of the reorganisation of the employment disputes resolution bodies under the Workplace Relations Act 2015 a two-tier adjudication system has replaced the original system. The reorganised system consists of the Workplace Relations Commission as the first instance body and the Labour Court as the appellate body. These two bodies now adjudicate on all employment disputes, whether disputes of rights or interests. Vesting day for the reorganised system was 1st October 2015.

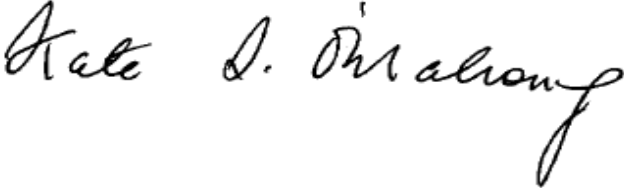
During 2020 the Tribunal listed cases for hearing but due to COVID 19 restrictions hearings in a physical setting could not proceed. However, a small number of cases were formally finalised during 2020 and now only 15 legacy cases remain to be concluded by the Tribunal. Once these remaining legacy cases are finalised, the Tribunal will be formally dissolved.

I thank you Minister and the Department for providing the facilities and resources to enable the Tribunal to carry out its work in 2021.

Finally, I would like to thank Therese Hickey of the Secretariat for the invaluable support she continues to give to the Tribunal. Her experience and expertise in the administration function of the Tribunal coupled with her invariable good humour make her a pleasure to work with. I would like to express my sincere gratitude to the

members of the Tribunal for their continuing commitment. Their knowledge and expertise are an invaluable asset to the Tribunal.

Yours sincerely

A handwritten signature in black ink that reads "Kate T O'Mahony". The signature is written in a cursive style with a large, prominent 'K' and 'O'.

Kate T O'Mahony BL
Chairman

Members of the Tribunal 2021

| | | | |
|---------------------------|-----------------------------|-------------------------|--------------------------------------|
| CHAIRMAN | | | |
| Kate T O'Mahony B.L. | | | |
| | | | |
| VICE-CHAIRMEN | EMPLOYERS' PANEL | EMPLOYEES' PANEL | Secretary to the Tribunal |
| Emile Daly B.L. | Joe Browne | Noel Dowling | Ms. Bernie Byrne |
| Penelope McGrath B.L. | Michael Carr | Tom J Gill | |
| Niamh O'Carroll Kelly B.L | John Horan | Suzanne Kelly | |
| Peter J O'Leary B.L. | Desmond Morrison | Dominic McEvoy | |
| Tom Ryan | James O'Neill | Ciaran Ryan | |
| | Neil Ormond | | |

1. Dissolution of the Employment Appeals Tribunal

1.1 Workplace Relations Act 2015

Under the Workplace Relations Act 2015 (No.16 of 2015), the functions of the Employment Appeals Tribunal ceased in relation to new claims or appeals and no such cases have been lodged with the Tribunal since 1st October 2015. The Workplace Relations Commission has assumed, inter alia, the first-instance functions of the Employment Appeals Tribunal. The Labour Court now has sole appellate jurisdiction in all disputes arising under employment rights legalisation. All new employment rights claims and appeals are being lodged with the Workplace Relations Commission and the Labour Court respectively since 1st October 2015.

The Tribunal retained its implementation function in respect of Rights Commissioners' Recommendations but this function remains to be transferred within the reformed system.

1.2 Dissolution of the EAT

All legacy cases lodged with the Tribunal before 1st October 2015 are being finalised by the Tribunal itself. During 2021, the Tribunal worked to expedite its legacy cases and consequently has continued in existence in parallel to the new structures. However, due to COVID restrictions it was unable to hold the scheduled physical hearings. At year end, only a small number of cases remain to be heard by the Tribunal and the majority of these involve parallel civil proceedings. It is the Tribunal's intention to complete this work as efficiently as possible with a view to allowing its dissolution take place in accordance with Part 6 of the Workplace Relations Act 2015.

2. Contact

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Employment Appeals Tribunal
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Dublin 4
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3. Case Statistics

3.1 Legacy Cases Disposed of in 2021

During 2021, the Tribunal disposed of cases.

| CASE TYPE | TOTAL DISPOSED |
|---|---------------------------|
| Redundancy Payment Acts 1967-2014 | - |
| Minimum Notice and Terms of Employment Acts 1973-2005 | - |
| Unfair Dismissal Acts, 1977 to 2007 | 2 |
| Protection of Employees (Employers' Insolvency) Acts 1984-2012 | - |
| Organisation of Working Time Act 1997 | - |
| Maternity Protection Acts 1994 and 2004 | - |
| Payment of Wages Act 1991 | - |
| Terms of Employment (Information) Acts 1994-2014 | - |
| Parental Leave Acts 1998 and 2006 | - |
| TOTAL | 2 Claims Finalised |

3.2 Cases Referred in 2021

There were no applications to implement a decision or recommendation of the Rights Commissioners.

There were no cases referred back from the High Court to the Employment Appeals Tribunal for a new hearing.

3.3 Cases remaining to be finalised

At the end of 2021, there were 15 legacy cases left to be finalised by the Tribunal. It is anticipated that these will be finalised over the course of 2022.

4. Appeals to the Higher Courts

Determinations of the Tribunal may be judicially reviewed or appealed under some Acts on a point of law to the High Court.

Determinations by the Tribunal in cases under the Unfair Dismissals Acts may be appealed to the Circuit Court within six weeks of the date on which the Determinations are communicated to the parties. The procedure for appealing Tribunal Determinations is set out in Circuit Court Rules (www.courts.ie). The regulations also provide a means for the Tribunal to be informed of the referral and the result of cases appealed to the Circuit Court. From information supplied approximately two cases (both appeals and enforcements) progressed to the Circuit Court.

5. Determinations of the Tribunal

The Tribunal maintains a public register of its Determinations, in accordance with statute. The Register is open for inspection, free of charge, by any member of the public during normal business hours at its offices in Lansdowne House. Determinations are also available on the website www.workplacerelations.ie.