

Time Limits for a Payment of Wages Claim

This issue arose in the case of Elsatrans Limited and Joseph Murray PWD1917.

The Labour Court held that the relevant six month limitation period in the Act for the complaint issued was the period 27 November 2015 – 26 May 2016. The complaint purported to refer to the period 10 November 2015 – 30 March 2016.

It was argued that following the case of HSE –v- McDermott 2014 IEHC331 that this renders the entire complaint statute barred. The Counsel in the case referred to the following passage of Mr Justice Hogan

“For the purposes of this limitation period, everything turns, accordingly, on the manner in which the complaint is framed by the employee.”

If, for example, the employee has been unlawfully making deductions for a three year period, then provided that the complaint which has been presented relates to a period of six months beginning

“on the date of the contravention to which the complaint relates, the complaint will nonetheless be in time, it follows, therefore, that if an employer has been making deductions x from the monthly salary of the employee since January 2010, a complaint which relates to deductions made from January 2014 onwards and which is presented to their rights commissioner in June 2014 will still be in time for the purposes of Section 6(4). If on the other hand the complaint had been framed in a different manner, such that it related to the period from January 2010 onwards, it would have been out of time”.

The Labour Court followed this rationale and further pointed out that the Court had no jurisdiction to permit a complainant to amend at the Appeal stage his or her original complaint referred at first instance to the WRC.

This is a helpful decision of the Labour Court restating the law.