

Redundancy Payment Act Claims

In case ADJ-16155 the AO in this case very helpfully calculated the redundancy payment. The decision sets out the start and finishing date. It does not set out the weekly wage.

There are currently difficulties with the Department of Social Protection in respect of certain claims that go in. It is useful if decisions set out the start date, the finishing date and the weekly rate of pay together with any periods of lay off if applicable. Then it is easy for the employee to do the calculation which is required any way to be submitted to the Department and it is equally easy for the Department to check of the information in the decision against their records.

There is no necessity for an AO to do the calculation. It is helpful that they do but provided the relevant information as set out above is there then it makes it easier for checking if an issue arises in relation to the calculation which may be challenged at times by the Department.

In case ADJ-16010 the AO had to deal with an Unfair Dismissal case where it was claimed the employee had been made redundant. The AO in this case helpfully set out the test of what a valid redundancy was quoting the case of UD206/2011 where the EAT stated:

“When an employer is making an employee redundant, while retaining other employees, the selection criteria being used should be applied in a fair manner. While there are no hard and fast rules as to what constitutes the criteria to be adopted nevertheless the criteria to be adopted will come under close scrutiny if an employee claims that they were unfairly selected for redundancy. The employer must follow the agreed procedures when making the redundancy. Where there are no agreed procedures in relation to selection for redundancy, as in this case, then the employer must act fairly and reasonably.”

It is helpful that the AO has set this matter out in this way. Very often employers fail to understand the importance of fair procedures in selection. Redundancy relates to the job and not to an individual. Therefore, while it was not covered in this particular case, selection on the basis of who is the best worker, for example, would not be fair selection.

In case ADJ16380 the AO in this case has set out the decision with absolute clarity. There could be no doubt if any issue arises into the

future as to what the relevant calculation would be. The AO has set out the start date, the termination date and the weekly wage. On that basis it is very easy using the Redundancy Calculator to calculate the redundancy payment.

The AO has also set out the requirement for the employee to be in insurable employment. The redundancy legislation is unusual. It is not a requirement that the employer actually paid the employer PRSI. All that is required is that the employee was in employment where their employer should have been liable to pay employer PRSI.