

Protection of Employees (Temporary Agency Work) Act 2012

The issue as to what the protections under that act applies to arose in a case of CPL Solutions Limited trading as Flexsource Solutions and Wrodarczyk. The employee originally won the case in the WRC where a sum of €2,500 was awarded. The claim by the employee was that he was not provided with the same conditions to which he would have been provided had he been employed directly by the hirer in that he was not allowed to bring a representative chosen from among employees of the hirer company but was instead instructed to bring a fellow employee of the agency.

The Labour Court looked at Section 6(1) of the Act and set out that it provides that an agency worker is entitled to the same basic working and employment conditions. The Court then looked at the provision of Section 2 which sets out what those basic working conditions are. The Court pointed out that nowhere in Section 2 does it make provision for a right of representation. Accordingly, the Labour Court overturned the decision of the Adjudication Officer.

This might not appear to be the most important case ever but it is actually very relevant in that it is important in looking at these claims that the protections, in the Act only relate to the provisions that are actually set out in the Act.

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***Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

****In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**