



# BUILDER FINED €5K IN PENSIONS PROBE

## Landmark case heard

■ By CATHERINE HALLORAN

**A BUILDER has been ordered to pay the maximum fine of €5,000 and costs in the first conviction secured by the Pensions Ombudsman.**

At Tuam District Court yesterday, David Denton — the Director of 3D Restoration and Construction Ltd of Barnaderg, Co Galway — was prosecuted for failing to comply with a request for payroll documentation made by one of the Pensions Ombudsman's investigators.

***Denton's company was under investigation following an allegation that pension deductions had been made from wages but not remitted to the Construction Workers' Pension Scheme.***

Earlier in the year, Pensions Ombudsman Paul Kenny had sought and obtained an Order in Galway Circuit Court directing Denton to comply with his request for payroll records.

### Offence

Mr Kenny indicated that to-date, Denton had not complied with a court order to his satisfaction and his legal advisers were now seeking remedy through Galway Circuit Court.

Mr Kenny said he had not made any determination in this case, as yet, as he did not have the full facts.

***"However, it is a very serious offence to obstruct an investigation by my office," he said.***

"Employers and importantly, their advisers, must realise that failure to comply with a request for information or documentation from my Office will have very serious

consequences.

***"I will go to the Circuit Court and will get an Order requiring production of the documentation and failure to comply with a court order is no trivial matter.***

"Furthermore, the act of not producing the information is a criminal offence in itself and I will initiate criminal proceedings in the District Court for obstruction — as I have done in this case.

He said it gives him no joy to go down this road.

But he said in certain cases he is left with no option but to use all of the legal avenues available to his office to complete an investigation.

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# Galway builder found guilty under Pensions Act

**ANNAJOY O'GORMAN**

**A Galway builder is the first person to be convicted by the Pension Ombudsman.**

David Denton, Director of 3D Restoration and Construction Ltd was found guilty and fined €5,000 for obstructing an investigation by refusing to produce payroll records.

The company is under investigation following an allegation that pension deductions had been made from workers' wages but had

not been added to the Construction Workers Pension Scheme.

Earlier this year the Pension Ombudsman obtained an Order in Galway Circuit Court for Mr Denton to comply with the request to produce payroll records.

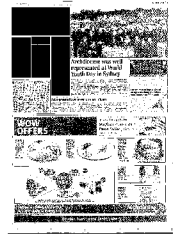
As the records still have not been produced to the satisfaction of the Ombudsman, Mr Denton was prosecuted under section 3 of the Pensions Act 1990.

Ombudsman Paul Kenny said "It is a very serious

offence to obstruct an investigation by my office."

He added that employers and their advisors should realise that refusing to comply with any request for documents or information will have very serious consequences. "The act of not producing information is a criminal offence and I will initiate criminal proceedings in the District Court for obstruction - as I have done in this case."

The investigation into Mr Denton's company continues.



# Tuam Court imposed first Pensions Act conviction on Barnaderg firm

A BARNADERG resident became the first person in the State to receive a criminal conviction under the Pensions Act when Judge Eamon O'Brien fined him €5,000 plus costs for failure to produce payroll records.

Solr Adrian McAlynn told Tuam Court that the case involved pension contributions that were not forwarded by the employer. In addition to the maximum fine costs of €1,200, plus VAT, and witness expenses of €250 were imposed on the defendant.

Judge O'Brien gave David Denton 90 days to pay and stipulated seven days in prison in default. Recognisances were fixed in the event of an appeal.

David Denton, Director, 3D Restoration and Construction Ltd of Carnacarton, Barnaderg, was prosecuted under the Pensions Act 1990 for failing to comply with the request for payroll documentation made by one of the Ombudsman's investigators. Mr. Denton's company is under investigation following an allegation that pension deductions had been made from wages but not remitted to the Construction Workers Pension Scheme.

Earlier in the year, the Pensions Ombudsman, Paul Kenny, had sought and obtained an order in Galway Circuit Court directing Mr. Denton to comply with his request for payroll records.

Mr. Kenny indicated that to date, Mr. Denton had not complied with a court order to his satisfaction and his legal advisors are now seeking remedy through Galway Circuit Court.

Mr. Kenny said in a statement that he had not made any deter-

mination in this case, as yet, as he did not have the full facts.

"However, it is a very serious offence to obstruct an investigation by my Office," he said.

"Employers and, importantly, their advisors, must realise that failure to comply with a request for information or documentation from my Office will have very serious consequences. I will go to the Circuit Court and will get an Order requiring production of the documentation, and failure to comply with a court order is no trivial matter.

"Furthermore, the act of not producing the information is a criminal offence in itself and I will initiate criminal proceedings in the District Court for obstruction – as I have done in this case. Leaving aside the financial implications of having to pay both legal costs and, if I eventually find against them, the cost of repaying pension contributions, employers should seriously consider the implications for themselves of having a criminal conviction registered against them.

"It gives me no joy to go down this road, but in certain cases, I am left with no option but to use all of the legal avenues available to my Office to complete an investigation. In this particular case, there is now a criminal conviction in place with an order for my costs, and compliance with a separate court order is an issue for the company."

***'Employers should seriously consider the implications'***



# Builder is convicted for not paying employee's pension contributions

**HISTORY was made in Tuam District Court with the first criminal conviction was secured by the Pensions Ombudsman against a company director who failed to pay pension contributions for an employee.**

David Denton, a director of 3D Restoration & Construction Ltd of Barnaderg was prosecuted under Section 3 (1) (b) of the Pensions Act 1990 for failing to comply with the request for payroll documentation made by one of the Ombudsman's investigators.

Denton's company is under investigation following an allegation that pension deductions had been made from wages but not remitted to the Construction Workers Pension Scheme.

Earlier in the year, the Pensions Ombudsman had sought and obtained an Order in Galway Circuit Court directing Denton to comply with his request for payroll records.

To date, Denton had not complied with a court order to the Ombudsman's satisfaction and his legal advisors are now seeking remedy through Galway Circuit Court.

The investigator, John Cray, told Tuam District Court on Friday that he had been authorised to carry out an investigation following a complaint by a former employee of the company that his boss hadn't paid his pension contributions.

Denton failed to supply information sought by the investigator and he had made no returns. The North Galway builder was found guilty by Judge Eamon O'Brien and fined the maximum €5,000 plus €1,200 costs and €250 witnesses' expenses.

In a statement afterwards, the Pensions Ombudsman, Paul Kenny said that failing to comply with a request from his office was a serious offence and that he would pursue others through the Courts.

"Furthermore, the act of not

producing the information is a criminal offence in itself and I will initiate criminal proceedings in the District Court for obstruction – as I have done in this case.

"Leaving aside the financial implications of having to pay both legal costs and, if I eventually find against them, the cost of repaying pension contributions, employers should seriously consider the implications for themselves of having a criminal conviction registered against them.

"It gives me no joy to go down this road, but in certain cases, I am left with no option but to use all of the legal avenues available to my office to complete an investigation.

"In this particular case, there is now a criminal conviction in place with an order for my costs and compliance with a separate court order is an issue for the company," he added.