

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

Employee

RP602/2006

against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr D. Mahon BL

Members: Mr M. Noone
Mr S. Mackell

heard this appeal at Dublin on 25th April 2007

Representation:

Appellant(s): Mr. William Jolley, Bowler Geraghty & Co., Solicitors,
2 Lower Ormond Quay, Dublin 1

Respondent(s): XXXX

The decision of the Tribunal was as follows:-

Appellant's Case

The appellant told the Tribunal that she commenced employment with the respondent on 26 April 1999. A meeting was convened in January 2006 and the general manager informed staff that the respondent was relocating to Rathcoole. The appellant approached the general manager in relation to the relocation and she told him that she would give it a try. She discussed redundancy amongst her colleagues and she was told that redundancy would be dealt with when the time came. The respondent relocated to Rathcoole in August 2006. She had discussed this matter six months prior to the relocation and if it did not work out she would be entitled to redundancy. She was told that she was not entitled to disturbance money. Three of her colleagues received redundancy due to the relocation to Rathcoole. She worked four weeks for the respondent in Rathcoole and she found the journey to and from work very difficult especially in the evenings. Another member of staff Ms. RC worked in Rathcoole for two weeks, and due to the commute she left and she received redundancy. The appellant then approached her general manager Mr. DV and she asked him if she was entitled to redundancy and he told her that he saw no reason why she would not be entitled to

it. He told her that he would speak to the MD. The MD refused to give her redundancy as she was leaving the company; the appellant reiterated that she had too far to travel to work. The appellant worked four weeks in Rathcoole and it did not work out. She spoke with the general manager about redundancy and she never had a discussion with the MD.

Her employment was not about whether she missed her friends. The reason why she sought redundancy was due to the distance that she had to commute to work. The appellant did not seek alternative employment at this time. She was asked to work four weeks notice to cover training and holiday leave. She was not too sure how much notice she was required to give the company. She believed the reason that she was treated differently than her colleagues was due to an incident that occurred in the company previously. She did not know who replaced her.

In cross-examination the appellant stated that she was prepared to move to Rathcoole on a trial period. The move to Rathcoole took place at the end of July /beginning of August 2006. She worked her four weeks trial and finished work on 4 October 2006. She asked for her redundancy on 1 September 2006 and three or four days later the general manager told her that she was not getting redundancy.

A witness on behalf of the appellant Ms. RC told the Tribunal that she was employed as a cleaner with the respondent for eight years. When the respondent relocated to Rathcoole she worked there for two weeks. It took her three hours to commute to work and she worked four hours a day. On ceasing her employment with the respondent she received redundancy.

A second witness on behalf of the appellant told the Tribunal that the respondent company employed her father and her uncle. They both left the respondent due to the commute to Rathcoole and they both received redundancy. When she commenced maternity leave in January 2006 the move to Rathcoole was not an issue for her. She received redundancy.

In cross-examination she stated that when she joined the respondent company she worked a five-day week. She then worked three days and for the past three years she worked two days a week. She was asked to work longer hours when the company relocated to Rathcoole but was unable to do so.

Respondent's Case

Mr. DV for the respondent told the Tribunal that he was a general manager and director of the company for eleven years. He told the Tribunal that the appellant was not made redundant and her employment was not terminated. The appellant told him that she had no specific reason for leaving the company but that she needed a new challenge. The appellant did not have a job to go to and this alarmed Mr. DV. He told her to remain with the respondent until she found a job, she was a good employee and did a great job. He told her if she needed time to attend for interview that he would facilitate her. The appellant considered what he said and she discussed it with her family. The appellant told him she was leaving and she asked him about redundancy. He told her that if she was leaving that he would see what he could do for her. He spoke to the MD who told him that the appellant could not be made redundant and the decision was made by the board. The appellant told Mr. DV that she had a letter from the Citizens Information Centre, which indicated that she could be made redundant on the basis that the distance to her work in Rathcoole was too far. He told the appellant if redundancy was available to her he would see what he could do. The appellant submitted her resignation as she needed a new challenge and she was offered a job in the same industrial estate as that of the respondent. The respondent said that the appellant had

previously given in her notice but she changed her mind.

In cross-examination Mr. DV stated that he undertook his job as general manager and he had responsibility for staff. When asked if there was any reason why the appellant worked her notice period he responded that he asked her to do so and she was happy to oblige. Four members of staff were made redundant when the company relocated to Rathcoole. No promises were made to give the appellant redundancy and he did not think that she had a case for redundancy. The respondent has replaced the appellant.

Determination

The Tribunal having carefully considered the evidence adduced unanimously determined that this is a genuine redundancy claim. The Tribunal is satisfied that the transfer of location would involve considerable sacrifice and cause personal and domestic hardship for the appellant.

The appeal is allowed under the Redundancy Payments Acts, 1967 to 2003 based on the following criteria:-

Date of birth	24 June 1980
Date employment began	26 April 1999
Date employment ended	4 October 2006
Gross weekly pay	€615.38

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

