

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:  
Employee

CASE NO.  
UD237/2006

against  
Employer

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. M. Levey BL  
Members: Mr. J. O'Neill  
              Mr. N. Broughall

heard this claim at Dublin on 7th February 2007

Representation:

Claimant: In person

Respondent: In person

The determination of the Tribunal was as follows:

Respondent's case:

The Tribunal heard evidence from the owner of the Respondent company. His bank told him that if his debt to them reached a certain amount then they would close down his business. He was €2,000.00 short of the amount. His accountant was made aware of this and he advised him to effect redundancies. He told the Tribunal that he did not employ anyone else to fill the Claimant's position. He explained that he has two shops and made three positions redundant in one shop and two in the other. He made the redundancies on the basis of last-in first-out and also on the basis that the Claimant told him that she wanted every second weekend off and he could not guarantee her every second weekend off.

When asked by the Tribunal the witness explained that he did put a notice in both of his shops for staff and this was five months after the redundancies. The business had improved "a little bit".

The Claimant put to the witness that the advertisement was two to three weeks after she had been let-go. When asked the witness explained that he employed one new staff for one day per week.

Claimant's case:

The Tribunal heard evidence from the Claimant. She was let-go and after this she heard that there was an advertisement in the shop for staff. She heard that four staff were taken on.

The Tribunal heard evidence from the Claimant's husband who saw an advert for staff in the Ongar shop some two to three weeks after his wife was let-go. He himself went into the other shop where his wife had worked and saw two new employees there.

The Tribunal asked the Respondent to clarify regarding the new staff in the Clonee store. He explained that he had employed one male employee for security reasons for five shifts and one other employee for one shift per week.

**Determination:**

The Tribunal finds that the employer acted reasonably as a result of financial difficulties he was experiencing. The reality of the situation is that he still employs six people where before he had employed nine. Thus a genuine redundancy existed at the time the employee was let-go. There was a conflict of evidence whether a notice appeared in the Respondent's second shop in Ongar some weeks after the Claimant was let-go. However even if we accept the Respondent had put the notice in the window, the reality of the situation at the time was that there was a need to let five people go for financial reasons and staff selected for redundancy was on the basis of last-in first-out. The claim under the Unfair Dismissals Acts, 1977 to 2001, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)