

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

Employee

CASE NO.

RP542/2005

against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. K. T. O'Mahony B.L.

Members: Mr. P. O'Leary
Mr D. McEvoy

heard this appeal at Cork on 28th September 2006

Representation:

Appellant: In person

Respondent: Ms. Annette Keane

The decision of the Tribunal was as follows:

Ms. K the Childcare Manager for the Centre gave evidence on behalf of the respondent. The appellant commenced a three-year contract with the respondent on 9 September 2002. In June 2005 the respondent did not know if the Centre would continue to receive funding and as a result the staff, including the appellant were issued with protective notice. Two of the employees indicated that they would leave when their contracts expired. The appellant indicated that she would like to remain with the respondent. The respondent would have been able to facilitate this for about six months by paying her from the fees it received. Some time later the appellant told Ms. K she had changed her mind and that she would not remain on in the Centre. Ms. K told the appellant that as soon as the Centre received news of funding they would contact her with a view to offering her back her position. The appellant again declined and said she could not do full-time work but would like part-time work as she looked after her mother.

In August 2005 letters were issued to staff regarding redundancy. Ms. K mistakenly gave the appellant one of these letters. The appellant enquired if she were eligible for redundancy. Ms. K, on a mistaken understanding at the time, told her that anyone working on a fixed term contract was not entitled to redundancy. Ms. K had enquired from similar centres and was told the appellant would not be entitled to redundancy. It was only later that she discovered that such employees are entitled

to redundancy. Ms K asked the appellant if she knew what she was doing as she would be on social welfare and that she could offer her part-time work. Then appellant did not want the part-time work either. The appellant's employment was terminated on 26 August 2005.

Determination:

The Tribunal, having considered the evidence of the parties, is satisfied that the appellant was offered suitable alternative employment but resigned for personal reasons. Therefore, the appeal under the Redundancy Payments Acts, 1967 to 2003 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

