

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
Employee

RP543/2006

CASE NO.

against

2 Employers

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey BL

Members: Mr P. Pierce

Ms. E. Brezina

heard this appeal at Dublin on 4th April 2007

Representation:

Appellant: In person

Respondent: In person

The decision of the Tribunal was as follows:

The Tribunal heard evidence from the Appellant. He began working for the Respondent in 1999 as an apprentice panel beater. He qualified in 2004. He went from the "body shop" in the company to the stores area where he delivered parts as a van driver. In 2006 he wanted to return to the body shop and one of the owners (Mr. M) told him that he could not. He asked Mr. M if he could be made redundant and Mr. m told him that he would only make him redundant in name only and this was to facilitate him obtaining immediate social welfare payment as apposed to having to wait for six weeks or so. The Appellant told the Tribunal that this was the reason that he signed a letter stating that he was made redundant.

The Appellant told the Tribunal that he left of his own accord and that the employer did not dismiss him. He presented the aforementioned letter to the Department of Social and Family Affairs, (DSFA). The Tribunal asked the Appellant if the employees were told of the redundancy some weeks after he left and he agreed that that was the case. He told the Tribunal that he would not have left if he had known that the redundancies were to take place a few weeks later.

The Tribunal heard evidence from the Respondent. He told the Tribunal that the Appellant was "effectively" on his final warning. He had meetings with the Appellant and at one stage the Appellant approached him to enquire if they could reach an agreement and that he did not want to be fired. He told the Appellant that he was not going to fire him and that he would have to make

himself redundant in that he would not have to wait six weeks for a payment from the DSFA. The witness told the Tribunal that it was not until after this that they decided to close down the business.

Determination:

The evidence before the Tribunal was that the meeting between the Respondent and the main dealer took place on 25th August 2006. Thereafter it was decided to close the business. The Appellant left the Respondent a week before the redundancy situation was officially notified to the staff. Not only that, but the Appellant approached the employer looking to be made redundant and when the employer refused, the Appellant left of his own accord. Thus even if the employer had some inkling that the redundancy would be coming up in the future, he was not under any obligation to inform the Appellant of this, particularly when the Appellant was intending to leave anyway and approached the employer with this in mind a week before the redundancy situation arose. Accordingly, the appeal under the Redundancy Payments, Acts, 1977 to 2001, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)