

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

Employee

CASE NO.

UD1340/2006

MN887/2006

Against

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001
REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. MacCarthy S.C.

Members: Mr. S. O'Donnell

Ms. F. Moloney

heard this claim at Dublin on 21st May 2007.

Representation:

Claimant: Mr. Ray Ryan B.L. instructed by Andrew Turner, of Hamilton Turner, Solicitors, 66 Dame Street, Dublin 2

Respondent: Ms. Ann Hartnett O'Connor B.L. instructed by Anne Hanlon of Nelson & Company, Solicitors, Templeogue Village, Dublin 6W.

The determination of the Tribunal was as follows:

The claimant did not have enough service to take a claim under the Redundancy Payments Acts, 1967 to 2001.

The minimum notice claim was withdrawn.

The fact of dismissal was not in dispute. The claimant contended that she was dismissed because she was pregnant.

Claimants Case:

The claimant was employed as a project manager for the respondent company. She managed the day to day contact between the clients and the design team. When she told the managing director that she was pregnant in September 2006, he commented that it would be a hassle employing someone else to cover maternity leave.

She was dismissed on 7th November 2006. When she arrived at work, the managing director called her to the boardroom and said, I have to let you go. There was no advance warning. She was upset and worried about getting another job. She was told there was no need to work notice. A colleague took her home. She received no written explanation for her dismissal.

The claimant was aware that there were problems but she did not have access to the accounts so she was unaware of the extent of the difficulties. She felt that looking after clients was important because without clients there would be no business. The respondent did not operate a last in first out policy in choosing whom to let go. For the moment her career is gone.

Respondent's Case:

The respondent company ran into financial difficulty, to keep going staff and overheads were cut. Staff members were encouraged to seek alternative employment. The core business is design, so design staff had to be replaced. Staff numbers were reduced. The directors' salaries were cut. The company moved into cheaper premises. No redundancy payments were made. The company was fighting for survival; it was impossible to make a settlement payment. The company is still trading at a loss but should be back in profit soon.

There were few formal meetings; employees were informed casually about the situation. There was no written policy for letting people go.

The claimant was a good employee. His intention was to save the company not to get rid of people. No staff let go were given compensation. The claimant was not let go because she was pregnant.

Determination

The Tribunal is satisfied that a redundancy situation existed. The company was in financial difficulty and the number of staff was reduced.

Despite the lack of written procedures for dismissing employees, the Tribunal finds that the claimant was not unfairly selected for redundancy, accordingly her claim under the Unfair Dismissals Acts, 1977 to 2001 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)