

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employee

RP135/2006

against

4 Employers

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms R. O'Flynn, B.L

Members: Mr D. Hegarty
Ms H. Kelleher

heard this appeal at Cork on 28th June 2007

Representation:

Appellant :

In Person

Respondent :

Director

The decision of the Tribunal was as follows:-

Respondent's case:

The director gave evidence to the Tribunal. The claimant did the food in the kitchen for the respondent and since it was coming up to the mid term break for the nearby College he suggested on 10th February 2006 that for the following two weeks he would reduce her hours to 12/12.5 per week. The claimant left that day which was a Friday and did not come into work on the following Monday. She did not want her hours reduced. On 21st February he phoned the claimant asking was she coming back to work and she said she was not and that she was sick. In April the tax office contacted him asking for a P.45 for the claimant. He responded by letter saying that he did not let

the claimant go. He had received no contact from the claimant after 10th February other than his telephone call and medical certificates were not furnished. At Christmas 2005 he told the claimant that if the food business did not pick up that he would reduce her hours to 12/12.5.

In answer to questions from Tribunal members witness said the claimant told him she went to work in the Mercy Hospital after she left the respondent in May 2005. In 2005 she left in May and returned in September when she asked for work. When the College closed for the Summer of 2005 he had to reduce the claimant's hours. She did not claim Redundancy at that time. After the claimant left in February 2006 he assumed she was coming back. A sister of witness did the work in the absence of the claimant. P.45's were issued to the claimant in September 2004 and again in June 2005 copies of which were submitted to the Tribunal.

The claimant could have worked 12/12.5 hours during the Summer of 2006 if she wanted. She needed 19 hours and he could not give her those hours. In 2005 the claimant requested the P.45

Claimant's case:

The claimant in her evidence told the Tribunal that she commenced her employment with the respondent in or around July/August 2000. In May 2004 she left as her hours were reduced but she did not accept that she received a P.45 at this time. She did however receive a P..45 in 2005. She was asked to go sick during May to September each year. She never rang at the end of the Summer but was automatically called back to work each September. In the Summer of 2005 she worked 17 hours per week at the Mercy Hospital as she was not getting enough money from Social Welfare. At the end of January 2006 the respondent told her he had received a notice that the College nearby were to extend their kitchen and that he had no more work for the claimant. He then said that he could not afford to keep her on. She never received a payslip apart from one hand-written one which was shown to the Tribunal. The respondent did not ring her on 21st February 2006 it was she who rang him. She met the respondent outside a business premises around February/March 2006. When she rang the respondent he said he would give her two hours work per day as opposed to four hours per day but she would not accept the reduction in hours.

In answer to questions from Tribunal members the claimant said she got only one P.45 and that was in May 2005 and she then received a telephone call to come back to work the following September.

The Summer of 2005 was the only Summer she worked. She had no reason to walk out on her job but she was told she had no job.

She said she was told to leave every May to September and was not offered 12/12.5 hours work. She was offered two hours per day and it was not worth her while to travel from the North side of the city every day. She obtained alternative employment in March 2006 closer to home.

Determination:

Having heard the evidence the Tribunal is satisfied that the claimant's continuity of service was broken in or around June 2005 when a P.45 was issued at the claimant's request so as to facilitate her employment at the Mercy Hospital. Accordingly the Tribunal is satisfied that the claimant has not attained two years continuous service with the Respondent and accordingly does not qualify for a redundancy payment. Accordingly, the appeal under the Redundancy Payments Acts 1967 to 2003 fails.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

