

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

Employee

UD612/2007

against

Employer

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. N. O'Carroll-Kelly B.L.

Members: Mr. J. O'Neill  
Mr. J. Maher

heard this appeal at Dublin on 21 September 2007

#### **Representation:**

Claimant:

In Person

Respondent:

Director of Operations for the Respondent

The determination of the Tribunal was as follows:

A transfer of undertakings was effected on 24 November 2006 when the business, XXX Bar was transferred to the respondent. All members of staff who did not take voluntary redundancy transferred to the respondent on the same terms and conditions as had applied under the transfer. Post transfer the respondent decided to reduce the number of employees and sought volunteers for redundancy. The claimant accepted the statutory redundancy package offered to him and declined to express any interest in the positions, which were to be remaining in the respondent going forward. His belief was that his position was guaranteed by virtue of the transfer of the undertaking and that he did not need to express any interest in the remaining positions due to that belief. The respondent's position was that the claimant had transferred to the respondent, had then accepted redundancy in a situation where redundancies were necessitated on economic, technical or organisational grounds, in this case economic grounds, and had declined to apply for any of the new positions going forward.

**Determination:**

The Tribunal is satisfied that the claimant was dismissed on foot of a genuine redundancy in the respondent, arising after a transfer of undertakings, on economic technical or organisational reasons. In those circumstances the claim under the Unfair Dismissals Acts, 1977 to 2001 must fail.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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