

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

Employee

RP414/2007

against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr. G. McAuliffe
Mr. P. Trehy

heard this appeal at Dublin on 4 December 2007

Representation:

Appellants:

Mr. Conor Bowman B.L. instructed by Mr. Joseph Burke,
McCartan & Burke Solicitors, Iceland House,
Arran Court, Smithfield, Dublin 7

Respondent:

Mr. Tim O'Connell, IBEC, Confederation House,
84/86 Lower Baggot Street, Dublin 2

The determination of the Tribunal was as follows:

The appellant was employed, in the USA, by other companies in the same group as the respondent from 15 May 1991. In January 2004 she transferred as senior clinical researcher to a position in England. As the nature of the work involved a lot of travel away from the office she chose to live in Ireland. Her superior at this time was living in Belgium. From 1 May 2005 the appellant was promoted to a position as clinical trials manager based in Dun Laoghaire. The employment was uneventful until January 2006 when an issue arose whereby the new director of clinical research (DCRE), who was based in England, told the appellant that her position was likely to move to England in the future, possibly in the spring of 2007. In February 2006 DCRE told the appellant that her position would move to England in December 2006 when a new facility was to open there. DCRE kept referring about this relocation in conversations with the appellant to the extent that the appellant referred the matter to the human resource manager administration (HRA).

The day after her performance review in September 2006 the appellant received an email from

DCRE, titled “organisational realignment”. This document made it clear that the appellant’s position was to transfer to England in February or March 2007. The document suggested that the appellant was agreeable to this move, a position denied by the appellant. Following the appointment of a new director of medical affairs (DMA), who was based in France, in October 2006 the appellant was told that her position might now move to France.

In December 2006 DCRE relocated to the USA and the appellant began to search for alternative positions in Ireland within the respondent. HRA assisted the appellant in this search but without success. In March 2007 DMA told the appellant that there was still no decision between her position moving to either England or France but it would not stay in Ireland. The appellant’s position was that in April 2007 she received a phone call from the human resource manager business (HRB), based in England. In this phone call the appellant was told that her position would move to France in October 2007. HRB did not give evidence to the Tribunal. On being told by HRA that there would be no relocation package for any move to France or indeed England the appellant took this as confirmation that her position was to be made redundant and sought a position with another employer. Having obtained another position the appellant submitted her resignation on 20 April 2007. The appellant’s position has not been replaced, either in Ireland, England or France.

Determination:

The Tribunal is satisfied that, at their meeting on 20 April 2007, HRB told the appellant that her position as clinical trials manager was to relocate from October 2007. On that basis the Tribunal is satisfied that the appellant is entitled to a lump sum payment under the Redundancy Payments Acts, 1967 To 2003 based on the following criteria

Date of Birth	29 June 1954
Employment commenced	15 May 1991
Employment ended	11 May 2007
Gross weekly pay	€1,600-00

It should be noted that payments from the social insurance fund are limited to a maximum of €600-00 per week

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)