

## EMPLOYMENT APPEALS TRIBUNAL

### APPEAL(S) OF:

8 Employees

### CASE NO.

RP646/2006  
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against  
Employer

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr J. Fahy BL

Members: Mr. J. Redmond  
Dr. A. Clune

heard this appeal at Galway on 25th January 2008

### Representation:

Appellant(s) : Terry Delaney, CWU, 575 North Circular Road, Dublin 1

Respondent(s) : Company Representative

The decision of the Tribunal was as follows:-

**This case was heard in conjunction with K29873 – Employee –v- Employer**

### Appellant's Cases:

#### Employee

The appellant stated that she commenced employment with the respondent on January 23<sup>rd</sup> 2001. A meeting was held in December 2005 and the staff were informed that a different company (hereafter known as C) were taking over the business on December 5<sup>th</sup> 2005. Staff were given the option of claiming redundancy from the respondent company or be taken on by C.

When asked the appellant said that there had been no break in her service and that she was still working for C. She stated that she tried to claim redundancy from the respondent company but was informed that there was no redundancy. When asked, she stated that there had been claims under the European Communities (Safeguarding of Employees Rights on Transfer of Undertakings) (Amendment) Regulations, 2003 before the Rights Commissioner in relation the claimants named in this case. The Rights Commissioner found that there had been a transfer of undertakings of the appellants between the

respondent company and C.

**Employee**

The appellant stated she had commenced employment with the respondent on April 9<sup>th</sup> 2002 until December 3<sup>rd</sup> 2005. She corroborated XXXX evidence of the choice given to her to take redundancy or join C. She elected to work for C.

**Employee**

The appellant stated she had commenced employment with the respondent on April 9<sup>th</sup> 2002 until December 3<sup>rd</sup> 2005. She corroborated XXXX evidence of the choice given to her to take redundancy or join C. She elected to work for C.

**Employee**

The appellant stated she had commenced employment with the respondent on April 9<sup>th</sup> 2002 until December 3<sup>rd</sup> 2005. She corroborated XXXX evidence of the choice given to her to take redundancy or join C. She elected to work for C.

**Employee**

The appellant stated he had commenced employment with the respondent on May 12<sup>h</sup> 2003 until December 3<sup>rd</sup> 2005. He corroborated XXXX evidence of the choice given to him to take redundancy or join C. He elected to work for C. He explained to the Tribunal that at the meeting they were informed, by the respondent's representative, that if they wished to work for C that they would be resigning their employment with the respondent. When asked, he said that he had not signed anything.

**Determination:**

Having heard the evidence adduced the Tribunal determines that the appellants are not qualified to redundancy payments as set out in the Redundancy Payments Acts, 1967 to 2003 as it was clear that a transfer of undertakings took place and all named appellants in this case individually elected to take up employment with the new company. According all appeals fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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