

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:  
Employee

CASE NO.  
UD835/2007

against  
Employer

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. P. O'Leary B L

Members: Mr J. Goulding  
Mr B. Byrne

heard this claim at Dublin on 24th January 2008

Representation:

Claimant:

Ms Sonia Henaghan, O'Neill Quinn & Company, Solicitors, Grange Cross,  
Ballyfermot, Dublin 10

Respondent:

Mr. John Barry, Management Support Services (Irl) Ltd, The Courtyard, Hill Street,  
Dublin 1

The determination of the Tribunal was as follows:-

The claimant worked for the respondent from 20<sup>th</sup> August 2004 to 30<sup>th</sup> July 2007, initially as a Chef in the respondent's Coolock facility and, from sometime in 2006, as Head Chef responsible for both the respondent's facilities in Coolock and in Tallaght. The respondent's business at the time was providing pitches/sports facilities and bar/food facilities on both premises. In Tallaght food was served seven days a week and at corporate events and children's birthday parties.

The respondent was involved in planning and pricing menus, food quality, organising rosters, training and procedures. The bar/food side of the business was losing money in Tallaght and the Managing Director decided to close this side of the business. On 30<sup>th</sup> July 2007 the Managing Director informed the claimant and other staff that the bar/food business was closing immediately in Tallaght. He offered the claimant two options: 1) a job as Chef in Coolock on a lower salary than he had been earning as Head Chef over both premises or 2) redundancy. After considering his options for 15– 30 minutes, the claimant chose redundancy. The Tallaght premises was closed on the 30<sup>th</sup> July and the claimant was paid redundancy payment, payment for holidays owed and payment in lieu of notice. The premises

no longer operates as a bar, nor does it serve food to the general public. However it does still provide chips and sausages to children's soccer parties for (at most) 3 – 4 hours at the weekend. One of the chef's from the Coolock facility comes over to Tallaght to provide for this business and is paid extra for doing so.

Either one or two corporate events have also taken place on the premises since 30<sup>th</sup> July 2007. According to the respondent, these events were committed to prior to the decision being made to close the premises.

**Determination**

A redundancy situation existed as the work done by the claimant diminished and the respondent no longer had a requirement for a Head Chef. As redundancy and unfair dismissal are mutually exclusive, the claim under the Unfair Dismissals Acts, 1977 to 2001 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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