

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
Employee

CASE NO.  
RP167/2007

Against

Employer

Under

### **REDUNDANCY PAYMENTS ACTS, 1967 TO 2003**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms C. Gleeson B.L.

Members: Mr. D. Winston  
Mr. N. Broughall

Heard this appeal at Naas on 19th February 2008

### **Representation:**

Appellant: In person

Respondent: Mr Breffni O'Neill, CIF, Construction House, Canal Road, Dublin 6

The decision of the Tribunal was as follows:

### **Appellant's Case**

The appellant is a fully qualified electrician who commenced employment as a single man with the respondent in 1999. At the commencement of his employment he agreed to travel for work purposes. He resides in Dundalk, county Louth and was based in the Newbridge area of county Kildare when the respondent informed him in September 2006 that work was ceasing on that site. The witness was given an option to go to Cork where the company had adequate work for him as an electrician. The appellant had to make a decision very quickly and following some discussion with his wife he opted not to accept the offer of work in Cork. By that stage he was married and his family of two children were based in Dundalk. His decision not to transfer to Cork was based on his domestic circumstances and the distances involved between residence and workplace.

Following a conversation with the managing director the witness believed that he was eligible for a redundancy payment as his employment with the company was now going to finish on 15 September 2006. The appellant's employment terminated that day with only a few days notice. Towards the end of September 2006 the appellant phoned the company office seeking his redundancy payment and as a consequence a human resource person contacted him saying he was not entitled to such a payment, as he had not gone to Cork. Upon hearing that news the witness then contacted others with a view to securing that payment. He received a phone call from that human

resource person in early October 2006 offering him an office job in Newbridge. However, she was unable to state the timeframe of that position and such an office job did not suit him. The appellant wanted to work as an electrician and considered an office job with the company as a demotion and as a different job. He had not received a contract of employment from the respondent.

The witness received a letter from that human resource person on 17 October, almost five weeks subsequent to his termination, offering him a position with the company that was different than his former position. He was unwilling to accept due to the nature and circumstances of it. Besides by that stage he had taken steps to establish his own business and registered a company in November 2006. The witness maintained that he had no objection to travel and accepted it was part of his arrangement with the company. However, he felt it unreasonable that he was forced to go to Cork at such short notice considering his circumstances. He emphasised the difference between his willingness to travel to and from work from his residence and uprooting himself and others for a position in Cork.

### **Respondent's Case**

The human resource manager said it was standard practice within the company to move staff around. She added that this was a condition of employment yet admitted that a contract of employment was never given to the appellant. However, the respondent tried as much as possible to accommodate their employees as regards movement and relocation but those unwilling to travel were "let go" and not made redundant. In the case of the appellant "he made himself laid-off" by refusing to accept the offer of work in Cork. Her attitude was that since there was a job in Cork for the appellant then he was not entitled to redundancy due to the loss of his job in Newbridge. The witness defended the short notice given to the appellant for this proposed move on this being the standard practice in relation to notice within the company.

From September 2006 up to early October the witness had assumed the appellant had gone to Cork as an electrician with the respondent. During further interaction with others she discovered this was not the case. In trying to prevent the appellant being out of work the witness phoned him and told him that he would have to work in an office in Newbridge. That position included working with drawings, a task familiar to the appellant. That job might have only been for a limited duration in the expectation he would again recommence work as an electrician as this was the only grade of workers the respondent had on its sites.

### **Determination**

The Tribunal having carefully considered the evidence is unanimously satisfied that a genuine redundancy situation existed and determines that the appellant is entitled to a redundancy lump sum payment under the Redundancy Payments Acts, 1967 to 2003 based on his continuous service and the following information:

Date of Birth:	2 November 1975
Date of Commencement :	23 March 1999
Date of Termination :	15 September 2006
Gross Weekly Pay:	€1000.12

Statutory redundancy payments are subject to a weekly ceiling of €600.00

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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

