

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:
Employee

CASE NO.
RP182/2008
UD227/2008

Against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2001 UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Sheedy

Members: Mr. M. Forde
Mr. D. McEvoy

heard this claim at Cork on 22nd May 2008

Representation:

Claimant: Mr. Noel Murphy, IWU, 55 North Main Street, Cork.

Respondent(s): Mr. Paudie O'Mahony, Solicitor, Babington Clarke & Mooney,
48 South Mall, Cork

The determination of the Tribunal was as follows:-

Claimant's Case

The Claimant gave evidence. He started working for the respondent when he was almost 17 years of age. At first he was a delivery boy. Later he was given an apprenticeship. He worked in the slaughterhouse.

The work in the slaughterhouse involved constant ground-work. He developed a back complaint. He asked the respondent for a helper and for a while there was someone to help him, but the man was not strong enough for the job. He told his employer about his back problem back in 2004 but got no response. He did not attend a doctor or get a medical cert concerning his back.

On the day he left, he told his employer that he would not work in the slaughterhouse. He wanted to work in the market instead. He was told that he could only work 3 days a week in the market. This arrangement did not suit, as he needed a full time job.

Respondent's Case

The respondent gave evidence. The claimant was a good worker. He worked in the slaughterhouse three days a week and in the market for the other two days. The claimant did not have to do much lifting in the slaughterhouse because a hoist was provided. The claimant sometimes complained of his back in the market, but the respondent thought it was because he had been involved in fights. Sometimes the claimant did not come to work on Monday, but the work would be done on Thursday evening. The claimant worked on his own in the slaughterhouse because the volume of work did was not enough to require a second person. Also food safety regulations required that one individual have responsibility for the quality of the work.

On the day he left, the claimant said he was finished with slaughtering, he wanted to work full time in the market. However there were enough staff in the market, but the respondent would give him three days a week work there.

After the claimant left her was replaced.

The respondent's son gave evidence. The claimant came to the market on 27th February 06 and said he would not slaughter anymore. He wanted to work in the market full time. The witness did not hear the claimant mention his back or request a helper.

Determination

The Tribunal is satisfied that a redundancy situation did not exist, therefore the claim under the Redundancy Payments Acts, 1967 to 2001 is dismissed.

The Tribunal finds that the claimant failed to produce any evidence of a back complaint. Also he did not engage in adequate discussion of his work difficulty with his employer before he left. Accordingly the case under the Unfair Dismissals Acts, 1977 to 2001 is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

