

## EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

Employee

UD987/2007  
MN761/2007

against

Employer

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2001 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. P. O'Leary B.L.

Members: Mr. R. Murphy  
Mr. B. McKenna

heard this appeal at Navan on 28<sup>th</sup> April 2008

#### **Representation:**

Claimant:

Ms. Ailionora McMahan B.L. instructed by Murrough McMahan of  
Regan McEntee & Partners, Solicitors, High Street, Trim, Co. Meath.

Respondent:

Mr. John F. Kelleher, Solicitor, 4-5 St. Mary's Terrace, Dunboyne,  
Co. Meath.

The determination of the Tribunal was as follows:

The claimant was given 4 weeks notice of the termination of her employment, as this notice is greater than her statutory entitlement her claim under the Minimum Notice and Terms of Employment Acts, 1977 to 2001 is dismissed.

#### **Respondent's Case**

The HR and Health & Safety officer of the respondent gave evidence. The claimant was initially hired to provide cover for maternity leave as purchaser from 27<sup>th</sup> March 06 to 8<sup>th</sup> September 06. The company is divided into 3 departments; engineering, contract manufacturing and recycling. Towards the end of the claimant's contract the recycling department was busy and sending

ut tenders for work. The claimant was offered and accepted a position as a procurement administrator in the recycling department. Unfortunately between September 06 and May 07 not many of the tenders were successful. Seven production workers were let go, as were 4 manufacturing workers. Letting staff go was a last resort by the respondent. Unfortunately, due to a downturn in work the claimant's job no longer existed in the recycling department. The claimant was informed of the situation at a meeting on 4<sup>th</sup> May 07 and was given written confirmation of the situation on 15<sup>th</sup> May 07.

When the claimant started work with the respondent there were approximately 90 employees, now there are about 60. After the claimant was let go, the respondent advertised and filled a position requiring 5-7 years AutoCad experience. The vacancy arose because two engineers left to go abroad. The claimant was not qualified for this position.

### **Claimant's Case**

The claimant gave evidence. She started work on 6<sup>th</sup> March 06 and finished on 31st May 07. She had liked her job and was good at it. The job she saw advertised was the job she had been doing. She had asked to be given training in AutoCad but nothing had come of her request.

The claimant took action to mitigate her loss.

### **Determination**

The Tribunal following careful consideration of the evidence finds that a redundancy situation existed within the respondent company and that the position occupied by the claimant within the undertaking was redundant, and the dismissal of the claimant by reason of redundancy was fair. Accordingly the claim under the Unfair Dismissals Acts 1977 to 2001 fails.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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