

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
Employee

CASE NO.
RP313/2008

against

Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr P. Hurley

Members: Mr. M. Forde
Mr. T. Kennelly

heard this appeal at Killarney on 20th November 2008

Representation:

Appellant(s): Mr. Ted Kenny, SIPTU, Connolly Hall, Tralee, Co. Kerry

Respondent(s): Mr. Michael Larkin, Downing, Courtney & Larkin, Solicitors, 84 New Street, Killarney, Co. Kerry

The decision of the Tribunal was as follows:-

Preliminary issue:

At the commencement of the hearing, the respondent's representative raised a preliminary point on the jurisdiction of the Tribunal to hear this case.

Respondent's case:

In the respondent's submission, it was highlighted that following lengthy negotiations and a referral of the matter to the Labour Court, a voluntary redundancy package was negotiated. The appellant had applied for voluntary redundancy from the respondent. The voluntary redundancy package, which was based on the Labour Court recommendation (LRC18867 issued on 12 April 2007), and which was accepted in a ballot of the employees, was statutory redundancy payment plus four week pay per qualifying year of service. This package included an adjustment to reduce the ex-gratia redundancy terms, the adjustment equating to 40% of the difference between an employee's statutory redundancy entitlement between the post and prior enactment of the Redundancy Payments Act, 2003. This was the voluntary redundancy package that was paid to the appellant.

In accepting the voluntary redundancy package, the appellant signed a “receipt agreement” and the RP50 form on 22 February 2008. The effective termination date of the appellant’s employment with the respondent was 31 January 2008.

A subsequent Labour Court recommendation (LRC19175) was negotiated in respect of a compulsory redundancy package. It issued from the Labour Court on 23 March 2008 and did not include the 40% reduction adjustment. However, this recommendation does not apply to the appellant as his employment had ceased when the recommendation issued.

As the appellant had accepted the voluntary redundancy package – a package which was greater than the statutory redundancy – and signed for receipt of same, the Tribunal had no jurisdiction to hear this matter.

(Copies of the respondent’s submission, Labour Court recommendations LRC18867 and LRC19175, and the receipt agreement were opened to the Tribunal).

Appellant’s case:

Though disputing that he had signed the “agreement receipt”, the appellant accepted that it was his signature on the document. The appellant felt the redundancy package that he had accepted was unfair and that he had been discriminated against because he left the company early. He accepted that his position had been made redundant by 31 January 2008. He left the respondent in January 2008 because of personal circumstances and financial pressures. But for these pressures, he would have remained on and benefited from the more attractive redundancy package that was subsequently offered for compulsory redundancies.

Replying to the Tribunal, the appellant confirmed that on 22 February 2008, he was paid full statutory redundancy under the Redundancy Payments Acts 1967 to 2003.

Determination:

The preliminary issue arose on the submissions of the respondent’s representative that as the appellant’s entitlements had been paid to him under the statutory redundancy provisions, which the appellant conceded in his direct uncontradicted evidence, the Tribunal had no jurisdiction to hear any other matter arising and is confined to adjudicating on the statutory redundancy claim.

Having carefully considered the submissions and evidence adduced, the Tribunal unanimously find that the preliminary issue succeeds and the Tribunal does not have jurisdiction to hear the claim under the Redundancy Payments Acts, 1967 to 2003.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)