

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

4 Employees

CASE NO.

RP52/2008

RP53/2008

RP54/2008

RP55/2008

against
Employer

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. E. Kearney BL

Members: Mr G. Phelan
Mr J. McDonnell

heard this appeal at Thurles on 17th November 2008

Representation:

Appellant(s) : Ms. Varginija Pettrauskaite interpreted on behalf of :
Migrant Rights Centre Ireland, 55 Parnell Square West, Dublin 1

Respondent(s) : In person

The decision of the Tribunal was as follows:-

Appellant's Case:

The first-named appellant did not attend the hearing and accordingly her appeal was dismissed.

The second-named appellant gave evidence. She commenced employment with the respondent on May 26th 2004. She stated that the owner of the respondent company informed her in early March 2007 that the company was to close and she was free to look for alternative employment. On March 27th 2007 she was let go and received her P45 and a cheque. Having perused her P45 it was noted that her gross weekly wage was € 209.85. She never told the owner she was leaving.

On cross-examination she stated that a colleague had informed her of the farm closing and then the owner told her personally. When asked if all the staff were told to leave, she replied that everyone knew the farm was closing as a Government official had visited the premises concerning the employee's rate of pay. This problem was later rectified.

She lived on-site when she commenced employment but later moved to a private residence. Most employees lived on-site. When she was let go the number of employees had reduced from 35 to 20. Work was busy at first but as time pasted it reduced.

The third-named appellant gave evidence. She commenced employment with the respondent on September 5th 2004. The owner informed her just before she went on annual leave in April 2007 that she might not be able to return work after her holiday, as there was no work. She received her P45 on April 27th 2007.

On cross-examination she agreed the respondent had employed her sister. Her sister had left her employment in June 2007. When she returned from her holiday the owner informed her there was no more work. When she told him she had no money he told her she could work for another 2 weeks but would finish up on April 27th 2007.

When asked by the Tribunal she said that the owner had informed her that 5 or 6 other staff had been let go. She acquired alternative employment in May 2007.

The fourth-named appellant gave evidence. She commenced employment on September 5th 2004. In March 2007 the owner informed her that the farm was to close as he had been advised by a Government official to do so. She was let go and received her P45 on May 3rd 2007.

On cross-examination she agreed she had told the owner that she was going to work with her daughter. When asked why she left the respondent she said that she had been told the farm was to close. She got alternative employment a week later.

Respondent's Case:

The owner gave evidence. He had no dispute with the dates given by the three appellants for the commencement and termination dates. He agreed that there had been a problem with the employees' rate of pay but this had been rectified.

Staff levels had depleted since 2004 from a staff of 30 to 15 in 2008. The decision was made to rationalise the company in order to run the company more efficiently. Staff, including one of the appellant's sisters, were still employed after the three appellants left as the respondent was still filling compost for mushrooms. In August 2007 the farm, including the employees, were taken by another employer. The witness is currently taking over the business again.

On cross-examination he said that the three appellants had left as they had acquired alternative employment. One of the appellants had complained about the nature of the job. As employees left he reduced the amount of compost filled. He disputed that he had told the appellants, in person, that they were let go.

A former employee of the respondent, employed as a Supervisor, gave evidence. One of the appellants had informed her that she was tired of the job. Another appellant just did not want to come to work and cover had to be sought. A third appellant went to work with her daughter. She never heard that the farm was closing. She left the respondent's employment in June 2008 of her own accord.

On cross-examination she stated that the second-named appellant had told her she had left.

Another former employee gave evidence. She was employed by the respondent from July 2002 to June 2008. She stated that the fourth-named appellant had told her the farm was to close but the owner had not. When she heard this she looked for alternative employment. She said that she felt the appellants' left was because they did not like picking mushrooms.

On cross-examination she stated that the appellants had not told her why they had left.

Determination:

Having heard all the evidence adduced by both parties the Tribunal finds that a redundancy situation did not occur and therefore all appeals fail under the Redundancy payments Acts, 1967 to 2003.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)