

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
Employee

CASE NO.
UD662/2008

against
Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. P. McGrath BL

Members: Mr. P. Pierson
Mr. J. Le Cumbre

heard this claim in Mullingar on 16 December 2008

Representation:

Claimant(s) :
Ms. Masa Maye, Catherine Allison & Co., Solicitors,
6 Roden Place, Dundalk, Co. Louth

Respondent(s) :
XXXX

The determination of the Tribunal was as follows:-

The Tribunal has carefully considered the evidence adduced. The onus is on the employer to establish that the termination of the claimant's employment was fair and reasonable in the circumstances.

Whilst the Tribunal has great sympathy for the claimant's employment predicament since March of 2008, the Tribunal cannot find that the employer acted in any way inappropriately. A situation of loss-making arose in early 2008 and the board of directors opted to go down the route of redundancy on a last-in, first-out basis. The employer was entitled to use this accepted industry norm and no other proposition was put forward as being more appropriate.

The Tribunal, in conclusion, accepts that a genuine redundancy situation existed and that the claimant's position in Mullingar continues to this day to be redundant.

As part of the ongoing discussions between the parties, the claimant was advised that a position in Dublin commensurate with his skills and remuneration was available. The Tribunal accepts that the job on offer was not as attractive in circumstances where a long-distance commute would be required. However, the Tribunal cannot accept that the claimant could dictate the terms of the job and, in particular, the claimant cannot refuse to conduct a Dublin-based job anywhere other than Dublin when his employer was adamant that the job needed to remain Dublin-based.

The claim under the Unfair Dismissals Acts, 1977 to 2001, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)