

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

Employee
- **Claimant**

UD594/2008
MN530/2008

against

Employer
- **Respondent**

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 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. P. McAleer

heard this appeal at Cavan on 27 January 2009

Representation:

Claimant:

Mr. Michael J. Ryan, Michael J. Ryan & Co. Solicitors,
Athbara House, Cavan

Respondent:

Mr. Vincent Turley, Human Resource Consultant, 1 Black Lane, Latlurcan,
Monaghan

The determination of the Tribunal was as follows:

At the outset the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 was withdrawn, it being accepted that notice had been given.

The claimant was employed as a factory worker/machine operator in the respondent's bed making plant from 23 May 2007. The employment was uneventful in around February or March 2008 when, because of falling sales, it was decided to declare some sixteen positions redundant in the respondent and other associated companies out of a total of some 106 employees. There were six positions declared redundant from amongst the 55 employees of the respondent company. The claimant, who had informed her employers of her pregnancy some time in February 2008, applied for maternity leave towards the end of April 2008.

The respondent's position was that the overall ability of the employees combined with last in first out were the criteria used in the selection of candidates for redundancy. The claimant's position was that she had been selected for redundancy because of her pregnancy. When the selection for redundancy was made a lady with less service than the claimant was kept on. The managing director of the respondent told the Tribunal that this lady was more skilled than the claimant and pregnant ladies could not work the machine involved. He denied that any comparison was made between this lady and the claimant. The claimant was handed a letter informing her that her position was redundant on 13 May 2008. This was the first indication that she was given that her position might be in jeopardy.

Determination

The Tribunal being satisfied that the claimant was selected as a candidate for redundancy based wholly or mainly on her pregnancy it automatically follows that the dismissal was unfair. The Tribunal awards €16,000-00 under the Unfair Dismissals Acts, 1977 to 2007. The Tribunal further awards €337-00, being one week's pay under the Minimum Notice and Terms of Employment Acts, 1973 to 2001

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)