

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

Employee

- *claimant*

UD1106/2008

Against

Employer -

respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Taaffe

Members: Mr. D. Moore
Ms. E. Brezina

heard this claim at Dublin on 26th January 2009

Representation:

Claimant: In person

Respondent: In person

The determination of the Tribunal was as follows: -

Claimant's Case

She worked on a number of sites for the respondent. In February 08 she was moved to her last position. Almost immediately she had problems with her line manager. He humiliated her and ignored everything she said. The line manager also told her that women should not be managers or directors. He never clearly explained to her what she was expected to do at work.

The claimant wrote to the respondent on 8 September 08 complaining about her line manager. The director came to see her at work on 9 September 08 and she explained her issues to him. The director promised to investigate.

On 17 September 08 the director came to see her again. He had found no proof of wrong doing by the line manager. He told her she had 2 options, move to another location and accept a pay cut or stay where she was with her line manager.

The claimant felt she had no option but to leave. Verbally she gave one weeks notice and worked her notice. Later she faxed the director asking for a written report of his investigation. She did not get it. The claimant thought that the director did not investigate properly.

Respondent's Case

The director gave evidence. On 8 September 08 a client phoned the director. The claimant had sent an email to the client raising two issues. One issue was the claimant's trouble with the line manager. The director was disappointed that the matters were raised first with the client.

The director spoke to the staff. Nobody knew about the claimant's complaint. He also spoke to the line manager, who told him he was happy with the claimant's work.

At the second meeting with the claimant the director told her he could find no evidence to substantiate her complaint. He could not believe either the line manager or her.

The director never discussed a reduction of salary with the claimant. Had she decided she wanted to work at another location he would have had to move someone to make room for her. He hoped to sit down with the claimant and the line manager and work out the issue. Then the claimant could stay on site.

The claimant was adamant she could not stay. The director was at the site three days before the 8 September 08. She spoke to the claimant that day and she did not raise any issue with him.

Determination

For a claim for constructive dismissal to succeed the claimant needs to satisfy the Tribunal that her working conditions were such that she had no choice but to resign. The Tribunal is satisfied that the claimant had difficulties with her line manager. However for a period of six months she did not attempt to resolve the issue.

When the director learned of the claimant's difficulty he made efforts to resolve the issue. The Tribunal is satisfied that the claimant did not exhaust the grievance procedure before she resigned. Accordingly the Tribunal finds that the claimant was not constructively dismissed. The claim under the Unfair Dismissals Acts, 1977 to 2001 fails.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)