

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:  
Employee - claimant

CASE NO.  
UD1247/2008

against  
Employer - respondent

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms N O'Carroll-Kelly BL

Members: Mr M Murphy  
Ms E Brezina

heard this claim at Dublin on 19th March 2009

Representation:

Claimant: Ms Linda McEvoy  
12 Camden Row  
Dublin 8

Respondent: Ms Anne O'Connell  
William Fry  
Solicitors  
Fitzwilton House  
Wilton Place  
Dublin 2

The determination of the Tribunal was as follows:

#### **Respondent's Case:**

The CEO of the respondent company gave evidence that the claimant's position was made redundant as the company, a casino, was suffering heavy financial losses. It was necessary to restructure the company and management identified areas where savings could be made. One idea was to cut down on the number Pit Bosses (PB) from six to three, of which the claimant was one. The selection method used was to make the highest paying positions redundant, so that as few employees as possible would have to be let go.

The first PB position selected for redundancy was on the highest rate of pay of the PBs. Two more

PB positions then had to be selected, however, there were three PBs on the next rate of pay. The selection was then made on the relative skills of each of the three PBs, and particularly their ability to supervise both the gaming floor and the card room.

The CEO enquired of the Operations Manager which PB had experience of both the games floor and the card room. The Operations Manager gave evidence that he told CEO that one employee had experience in both areas and covered breaks in the card room. The claimant and another PB worked only in the gaming room. The Operations manager had asked the claimant previously if she would cover the card room, but she told him she didn't do poker. The CEO was unaware of the claimant having worked in a card room while with a previous employer. He didn't ask the PBs directly about their card room experience.

CEO informed the PBs that their positions were being made redundant at a meeting on 29<sup>th</sup> February 2009. He did not recall the claimant requesting a lesser role on lower pay at the meeting.

Since the reduction of the three PB positions no new PBs had been hired, and PB tasks had been taken on by other staff members. Lower paid employees had been trained in the role of PB as required. There were two PBs employed at the time of the hearing. Since the claimant's departure there had been further redundancies in the company and some roles were not filled when vacated. In 2009 all staff and management had taken a 10% pay cut.

#### **Claimant's Case:**

The claimant contended that she had been unfairly dismissed and that there had not been a redundancy situation. The claimant commenced her employment with the respondent company in 2005 as a senior inspector and was quickly promoted to Pit Boss. She had not worked in the card room, however in her previous employment she had worked in a card room dealing poker. The claimant believed it would only take a few weeks to train as a card room PB. The claimant did not recall ever being asked to cover the card room breaks.

The claimant was informed that her position was being made redundant at a meeting on 29<sup>th</sup> February 2008. She had requested a lesser position, but was refused. The claimant accepted that she had received her redundancy payment. The claimant contended that there were three new PBs, although these employees were with the company before she left. The claimant was aware that the remaining employees were on a lower rate of pay.

The claimant had previously attended meetings to discuss improving the company's finances. She believed that she and the other PBs were being blamed for the losses the company was suffering and that she was being dismissed for this reason. The claimant gave evidence of her loss.

A witness for the claimant gave evidence that he had become a PB after the claimant left, having previously worked in the card room. He was asked to train to become a games room PB also. He had previous games room experience from a previous employment. The witness stated that no new staff members were hired. The witness had recently left that employment.

A second witness for the claimant gave evidence that she was the general manager of the claimant's previous place of employment and stated that the claimant had dealt poker in the card room at that establishment. The witness had been unable to offer the claimant employment subsequent to her redundancy from the respondent company.

#### **Determination:**

The Tribunal have heard all the evidence adduced by both sides and have considered the documents handed in. The Tribunal is satisfied that the claimant's position was made redundant. Therefore, the claim under the Unfair Dismissals Acts, 1977 to 2007, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)