

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

Employee

- claimant

CASE NO.

UD6/09

RP5/09

Against

Employer

- respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 REDUNDANCY PAYMENTS ACTS, 1973 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms O. Brennan BL

Members: Mr. L. Tobin
Ms E. Brezina

heard this claim at Naas on 15th May 2009.

Representation:

Claimant: Mr. Blazej Nowak, Polish Consultancy Enterprise, 19 Talbot Street, Dublin 2

Respondent: Mr. Alan Barry, IR/HR Executive, IBEC, Confederation House, 84/86 Lr. Baggot Street, Dublin 2

At the outset of the hearing the claim under the Unfair Dismissals Acts, 1977 to 2007 was withdrawn.

Respondent's Case:

The claimant was employed as a General Operative and commenced employment on 16th February 2006. He was a good worker and very punctual. During his tenure he raised issues such as being unhappy with the jobs he was asked to do and also he did not have a good relationship with his manager. These issues were addressed by management to the satisfaction of the claimant.

On 10th February 2008 the claimant asked to meet the Managing Director. The Managing Director and the General Manager met the claimant that day. The claimant was afforded the opportunity of having a witness/interpreter present but he declined the offer. The claimant said he was unhappy in his role but did not indicate why this was so. He said he was leaving and was going to work in Dublin. He contended he would receive more money in Dublin. The Managing Director sought clarity from the claimant as he had spoken about leaving the company on previous occasions. He worked out his two weeks notice and his last day of employment was 24th February 2008. About six

months previously he also mentioned leaving and moving to Dublin.

The claimant has been replaced in his job. The respondent furnished the claimant with his P45 together with a reference some weeks later.

Claimant's Case:

The claimant contended that at the meeting on 10th February 2008 he never said that he was leaving. He was dissatisfied with the work he had to do. He believed the escalation of his conflict with his manager was the reason he was told to secure work elsewhere and to leave the company. His understanding was that he was dismissed and was being made redundant. He was permitted to work out his two weeks notice.

Determination:

The Tribunal carefully considered the evidence adduced at the hearing. Clearly there is a conflict of evidence.

At the meeting on 10th February 2008 it is clear to the Tribunal that the claimant was offered the opportunity of having a person present to translate the contents of the meeting and the claimant in his own evidence declined to have anyone present. The claimant further declined to seek any clarification of the events at that meeting subsequent to the meeting.

The Tribunal determines that the claimant left the company of his own volition and his claim under the Redundancy Payments Acts, 1973 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)