

**EMPLOYMENT APPEALS TRIBUNAL**

**CLAIM OF:**

EMPLOYEE

- *claimant*

**CASE NO.**

RP706/09

UD658/09

WT284/09

MN672/09

**Against**

EMPLOYER

- *respondent*

**under**

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
ORGANISATION OF WORKING TIME ACT, 1997  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007  
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms P. McGrath BL

Members: Mr. B. Kealy

Ms. E. Brezina

heard this claim at Dublin on 17th November 2009 and 14th December 2009

**Representation:**

Claimant: Ms. Sinead Curtis BL instructed by Mr Michael Lane, Thomas Loomes & Company, Solicitors, 1 Coolock Village, Malahide Road, Dublin 5

Respondent: Mr. John Barry, Management Support Services (Ireland) Limited, The Courtyard, Hill Street, Dublin 1

The determination of the Tribunal was as follows:-

**Respondent's Case**

The Human Resources Manager (HRM) gave evidence. The respondent is involved in the storage and distribution business. The company has storage, distribution and management departments. The claimant was employed as an office manager and reported to the transportation and administration manager (JAJ), who in turn reported to the operations manager (HG).

In January 2009 the company was forced to implement compulsory redundancies, as one of their customers no longer required their services. A consultation process between management and a works committee on behalf of employees was introduced as a mechanism for dealing with the redundancy situation. It was decided that posts filled by the claimant and JAJ could not be maintained and one of these posts would have to be made redundant. Accordingly, a skills matrix was designed by the company and used in the process as a means of selection for redundancy. Employees were kept informed at all times as to how the situation was progressing. The matrix system was divided into various categories including general management, transportation and administration and points were allocated depending on employee's abilities. The witness and the operations manager were responsible for the allocation of points.

Based on this matrix process JAJ was deemed to have scored a higher number of points and consequently, the claimant was made redundant. The claimant was offered an alternative position with the company. That position was as an office administrator and the salary was approximately €3000.00 less per annum than the position of office manager, which the claimant previously held. The claimant did not accept this alternative position.

The witness contended that the claimant did not utilise the company's disciplinary procedure as a means of expressing her unhappiness at being selected for redundancy and her employment was terminated on the 11 April 2009. A further downturn in business resulted in the company having to make further redundancies. The position of transportation and administration manager was made redundant and accordingly JAJ was made redundant. Her employment was terminated one week after the claimant was made redundant. Neither of the positions filled by JAJ nor the claimant have been filled since they were made redundant.

Under cross-examination the witness agreed that the claimant had longer service than JAJ. She confirmed that while the claimant was awarded a zero score under timekeeping in the matrix report, she was never disciplined for her timekeeping prior to the compilation of the report. The score of zero was below the required standard and the claimant was not offered a copy of her timekeeping reports after the matrix report was completed. She accepted that the post of office administrator offered to the claimant was below the level of office manager and would have been seen as a demotion. She confirmed that she relied on the day-to-day knowledge of the operations manager in the allocation of points in the matrix report.

The Operations Manager (HG) gave evidence. He was in this role for nine years and was based in Dublin. The claimant reported to JAJ. He was involved in the matrix process. The transportation element of the matrix was deemed to be important and HG said the claimant did not score well in this area.

Prior to the skills matrix he spoke to both the claimant and JAJ and asked for their views on possible input into the report and gave them one and half weeks to revert to him.

HG was present at the meeting on 26 January 2009. There was not a lot of discussion at that meeting. The claimant felt that she had the longest service in the company and that she should be kept. He discussed the office administrator position with the claimant on several occasions and encouraged her to think hard about the new role. The claimant indicated that she wanted to go and move on.

Under cross-examination HG said the possibility of work sharing was discussed. Following his

discussion on the matrix process the claimant was shocked and upset and did not want to accept it. The company needed someone to start immediately in the role. He had several conversations with the claimant concerning her managerial skills. The claimant had some difficulty with her timekeeping.

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

The claimant gave evidence. She worked as Office Manager for the respondent for four years. Her job entailed general administration, staffing, timekeeping and overlooking contracts. She reported to HG.

The claimant felt her role was undermined at the consultation process. She was asked to attend a meeting on 19<sup>th</sup> January 2009 together with JAJ and was made aware of the skills matrix. She was told there would be a thirty-day consultation period. Both she and JAJ were asked for ideas.

On 26 January 2009 the claimant attended another meeting. She was handed the skills matrix report findings. She was quite upset as she saw that she scored very badly under the transportation aspect. She did not think the scoring was fair. She did not think it would take a year to train-in on the job. She was offered an alternative position as office administrator at a lower salary. She declined the offer. She had no faith in the grievance procedures. The recourse open to her was either a demotion or to leave the company. She did not want to take a step backwards in the workplace. She had not been informed that there was an appeal process.

Under cross-examination the claimant said while she accepted that transport was an important part of the job she felt let down. It was explained that there was nothing personal being taken against her and to consider taking the alternative position offered. As far as she was concerned management had made their minds up. She did not fully understand the skills matrix process.

### **Determination:**

The Tribunal have sympathy for the claimant. It is clear that the claimant believed her redundancy had been unfairly brought about. However, the Tribunal cannot find fault with the company's procedure. The company gave some thought to the skills matrix put together to compare the two employees whose jobs were under review. The Tribunal accepts that there may have been an emphasis on the transportation aspect of the job, which was an area in which the claimant had no expertise. However, the company was entitled to consider this heading as being a significant part of the job that was left.

It is noted that the claimant was invited to take alternative employment and to take an appeal against the redundancy decision.

The Tribunal finds that the claimant was not unfairly selected for redundancy, therefore her claim under the Unfair Dismissals Acts, 1977 to 2007 fails. Her claims under the Redundancy Payments Acts, 1967 to 2007, the Minimum Notice and Terms of Employment Acts, 1973 to 2005 and the Organisation of Working Time Act, 1997 fail also.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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