

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF

CASE NO.

EMPLOYEE

RP489/2009

UD473/2009

against

EMPLOYER

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J Flanagan BL
Members: Mr E Handley
Ms M Maher

heard this claim at Dublin on 16th December 2009

Representation:

Claimant(s): In person
Respondent(s): Director of respondent

The determination of the Tribunal was as follows: -

Claimant's case

The claimant had been employed by the respondent on a part time basis since 2nd February 2001 and was temporarily laid off from 28th July 2008. A form RP9 completed at Part A was given to the claimant.

On 15th September 2009 Part B of said RP9 was completed by the claimant and given to the respondent. The respondent did not complete part C of form RP9 but instead she made a verbal offer to re-engage the claimant at later times than were entered into in the written terms and conditions of employment.

The claimant was not willing to recommence on these new terms and conditions, as the hours did not suit her domestic requirements.

Respondent's case

The respondent agreed that form RP9 had been completed as stated by the claimant. It was agreed that the respondent had offered to re-engage the claimant after a period of lay-off albeit at different times than those originally agreed and set forth in writing in the statement of terms and conditions of employment.

Determination

Having carefully considered the evidence the Tribunal finds that the claimant was not unfairly dismissed under the terms of the Unfair Dismissals Acts, 1977 to 2007 as she was fairly selected for redundancy on the basis that the job which she had performed was no longer required to be performed at the contracted times. The Tribunal finds that the respondent had offered like work to claimant and that the claimant had reasonably refused the like work. The claimant had been contracted to work as a part-time sales assistant starting at 9.30am, but the respondent had found that there was insufficient demand at those times to justify the continuation of this position. The claimant was unavailable for a later start due to her childminding commitments.

The claim under the Redundancy Payments Acts, 1967 to 2007 succeeds and the Tribunal awards to the claimant a lump sum payment calculated in accordance with the following criteria:

DOB	30 th December 1983
Date of Commencement	2 nd February 2001
Date of Notice	26 th July 2008
Date of Termination	15 th September 2008
Non reckonable service	28 th July 2008 to 15 th September 2008
Gross pay	€150.00 per week

This award is made subject to the claimant having being in insurable employment, during the relevant period, in accordance with the Social Welfare Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)