

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE - Appellant

CASE NO.
RP1039/2009

against
EMPLOYER - Respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. P. McGrath B.L.

Members: Mr. C. McHugh
Mr. G. Whyte

heard this appeal at Carlow on 20th January 2010

Representation:

Appellant: Mr. Fergal Doyle B.L. instructed by Ms. Gillian O'Shea,
Colm O'Coilain & Company, Solicitors, First Active House,
Old Blessington Road, Tallaght Village, Dublin 24

Respondent: A director of the company

The decision of the Tribunal was as follows:

The Tribunal carefully considered the evidence adduced.

This is an appeal for a redundancy payment pursuant to statutory entitlements. In order that the Tribunal might make such an order under the Redundancy Payments Acts, 1967 to 2007, the Tribunal must be satisfied that a genuine redundancy situation existed, i.e. that the job which the appellant was working ceased to be. Redundancy should relate to the position and not the person. The position is made redundant.

The parties entered into evidence. The respondent vehemently denied that there was a redundancy situation and that after the termination of the appellant's employment, on or about the 21st October 2008 he had to replace the appellant for the position that the appellant had departed. The appellant's position was therefore not made redundant.

What transpired in the course of the evidence was that the appellant and the respondent had a difference of opinion regarding motor expenses and that arising out of this disagreement the appellant left his employment. At best it seems this was a case for unfair dismissal though a claim was not brought under that legislation.

Of some concern to the Tribunal was the fact that at the request of the appellant the respondent wrote a letter stating that there was no work for the appellant in October 2008 when he clearly did have work. The only purpose for creating the letter was to allow the appellant to claim immediate unemployment benefit.

The appeal under the Redundancy Payments Acts, 1967 to 2007, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)