

EMPLOYMENT APPEALS TRIBUNAL

CLAIM HAVE:
EMPLOYEE

CASE NO.
UD2053/2009

- claimant

against

EMPLOYER

- respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. E. Daly B.L.

Members: Mr. D. Morrison
Ms. R. Kerrigan

heard this claim at Letterkenny on 31st May and 1st September 2010

Representation:

Claimant : Ms. Siobhán McLoone, Information Officer, Letterkenny Citizens Information,
Public Services Centre, Blaney Road, Letterkenny, Co Donegal

Respondent : Mr. Dessie Shiels, Solicitor, 16 Academy Court, Letterkenny, and Co. Donegal

The determination of the Tribunal was as follows:

Respondent's Case

The respondent is involved in the print media business and operates up to ten local newspapers nationally. The claimant was employed mainly as a receptionist in one of those newspapers based in the north county Donegal town of Buncrana. The group financial manager who was responsible for the entire accounts of the respondent outlined to the Tribunal the measures taken by the company to reduce costs. They included the closing down of some of their newspapers, two salary cuts for staff and up to fifty employees including the claimant losing their jobs mainly through redundancies. That cost cutting exercise was necessary as a result of a decrease of up to forty percent in its revenue by 2008. That exercise which started in the middle of 2008 took a full year to complete.

Another aspect of these cost cutting measures was the introduction of a new and modern software system called Riverweb. According to the witness the aim of this system was to drive the company forward as the old system was costing the company money. The witness explained how this system replaced the role performed previously by the claimant. Her functions were to answer phones, meet and greet customers, deal with the post and undertake some data input. By the summer of 2009 the Riverweb system was centralised for the entire group and could then perform those tasks in a more cost effective manner. As a consequence the position and requirement of secretaries throughout the company were no longer needed. The respondent therefore dispersed with the role of secretaries' throughout the whole company. Any remaining functions performed by the claimant could be done by the sales staff at the local office.

References were made to a secretary based at another county town who secured a job as a web designer. The witness indicated that this person was recruited internally for that position and that the claimant who was aware of the cost cutting exercise did not apply for that job. The respondent could not financially survive on revenue generated solely from circulation sales. It needed to generate sales from advertisements and that job became “ a lot tougher than before” as the business environment had become a more difficult market to operate. Since the claimant “did not do sales” such a position was not offered to her.

The respondent had the practice of engaging local people on a work experience programme. Those taken on were not paid nor were they treated as employees. That scenario applied to a student who took up a temporary position with the respondent around the time of the claimant’s termination of employment.

On the **second** day of the hearing the then General Manager gave evidence. He reiterated the evidence given by the group Financial Manager. He further explained that that the claimant was not part of the editorial, production or sales teams.

He explained how a University in Northern Ireland had been in contact with him around December 2008 concerning a work placement for one of their students who knew one of the staff. The University contacted him and it was agreed that she would be work as a placement for a period of a year. She (hereafter known as BD) would help the claimant, see how the paper was run and would work on her thesis. She commenced on June 8th 2009, would not be paid any salary or expenses and as BD was not a full-time employee she could come and go.

A day or two before the claimant was made redundant he was made aware of the situation. He approached the claimant and informed her the HR Manager would be coming to see her. The claimant’s work was divided amongst the remaining staff. After the claimant was let go BD was located around the reception area but did not carry out the claimant’s duties.

On cross-examination he stated that receptionists in other newspapers were also let go. The telesales team took over the reception duties after the claimant was let go.

The Company Secretary gave evidence. He supplied legal advice to the respondent company and worked closely with the management team. He attended a few meetings with staff were pay cuts, 2 upcoming paper closures and redundancies were discussed. All staff were aware of the respondent’s financial status and the introduction of the new computer system Riverweb.

When the claimant was made redundant she was given the opportunity to appeal the decision to him but never did. He stated that once the Riverweb system was introduced the role of receptionist was null and void.

The Human Resources Manager gave evidence. She was aware of the claimant’s position in the company and the duties she carried out. She informed the claimant that she was made redundant and gave her a letter to that effect.

On cross-examination she said the only positions available were for experienced telesales staff and the claimant did not have that experience. There were no other positions available for the claimant. She explained that there was a position advertised for the Riverweb administration. A receptionist from Letterkenny applied and was successful acquiring the position.

Claimant's Case:

A former telesales employee of the respondent company gave evidence. She was employed from July 2007 to March 2010. She had worked alongside BD for 8 months. She stated that BD carried out the same role the claimant previously had and never worked in telesales. The telesales team were not allowed to cover the reception duties. She was never BD's Manager and had no authority to tell her what to do.

She explained that in January 2010 there was a month of very harsh weather and BD could not make it into work. The witness and one other staff member looked after reception. BD never dealt with advertisements. She thought she had been told the claimant was to be made redundant and had voiced her opinion that the telesales team would have to take over her duties.

The claimant gave evidence. She had been employed for 7 ½ years with the respondent company. She outlined her complex role as receptionist to the Tribunal.

On May 11th 2009 the General Manager told her the HR Manager was coming to see her and told her that she "knew what that was, redundancy". The following day the General manager was running late. She went home for lunch and received a call from him to return to work as soon as possible. On her return he informed her she was to be made redundant and the telesales staff would take over her duties. On June 8th 2009 she was introduced to BD and told to "show her the ropes". The claimant finished up the following day.

On cross-examination she stated that if she had been aware of the Riverweb position she would have applied for it. She explained that she was not involved in telesales and had not been offered a position. She felt the meeting with the Human Resources Manager had not been carried out professionally. She said that she had been informed BD was taking over her role.

Determination:

Having heard all the evidence adduced over the two-day period the Tribunal finds that a genuine redundancy had taken place and that the claimant had not been unfairly selected.

Accordingly her claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)