

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:
EMPLOYEE –**claimant**

CASE NO.
UD1487/2009
RP1666/2009
MN1479/2009

against

EMPLOYER –**respondent**

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. C. Egan

Members: Mr. P. Pierson
Mr. M. McGarry

heard these claims at Carrick on Shannon on 6 July
and 13 October 2010

Representation:

Claimant: Mr. Stephen O’Sullivan instructed by Ms. Carol Ni Chormaic,
Patrick Duffy Solicitors, Carrick on Shannon, Co. Leitrim

Respondent: Ms. Kerry Molyneaux, IBEC, Confederation House,
84/86 Lower Baggot Street, Dublin 2

The determination of the Tribunal was as follows:

The claimant was employed as one of eleven customer service team managers (TM’s) in the respondent’s customer service call centre (the call centre) from October 2006. The call centre handles telemarketing, customer service and collections for the respondent’s credit card operation with a unit manager for each of these three units. The claimant was a TM in telemarketing. The employment was uneventful until a review, carried out by the respondent’s business leaders in August/September 2008, of the operations of the call centre for 2009.

In 2008 the total headcount of the call centre was reduced from 190 to around 110 and in the review for 2009 it was decided to reduce the number of TM’s from eleven to eight and the number of unit managers from three to two. This was in line with the respondent’s target of one TM to ten associates in telemarketing and one to fifteen in other areas. It was further decided to eliminate the

position of call centre department manager (DM) by amalgamating the role into the duties of the department manager of another call centre in the same group as the respondent in the UK.

The respondent's plans for 2009 were announced sequentially to the unit managers, the TM's and then next level of staff by DM, whose redeployment to another location had already been arranged, by the presentation of a talking points script on 15 January 2009. The claimant, along with the others affected, were told of their positions being at risk and of the need to apply for the remaining positions. Arrangements were made for those affected to meet DM and the Human Resource generalist (HR) the following day to discuss the selection criteria process for the remaining roles. They were also told that there would be opportunities for redeployment. The claimant was one of two TM's who did not avail of the opportunity for individual meetings to discuss the selection process further.

Ten of the eleven TM's applied for the eight remaining TM positions and the ten candidates were interviewed in a competency based process by the Department Manager from the UK (DUK) and the Recruitment/Staffing Manager. Each candidate was allocated one hour for their interviews that consisted of three parts with a total of eleven sections with a score of from one to four in each section. The claimant, who was interviewed on 21 January 2009, scored 29 out of 44 across the eleven sections and was one of the two lowest scoring candidates. The claimant's position was that she was dissatisfied with the interview process and found DUK to be combative during the interview to the extent that she felt threatened and not given enough time to answer the questions put to her. The claimant felt that the interview process was a done deal and that she had not been successful at the interview.

After her interview the claimant approached HR about her dissatisfaction and asked if she could be considered for a lower ranking associate role in collections. While she asked for this to be on a confidential basis HR suggested that the claimant might approach DUK for a further interview. The claimant felt unable to approach DUK and took no further action in this regard. On 26 January 2009 the claimant met DUK and the Employee Relations specialist and was told of her failure to gain one of the eight TM positions. Arising from this the claimant was given the option of taking redundancy or of applying for redeployment to alternative positions at a lower rate of pay. The claimant declined to apply for any of those positions. The claimant received formal notice of redundancy on 10 February 2009 and received four weeks' pay in lieu of notice.

Determination:

It was common case that a redundancy situation existed at TM level in the respondent. The claimant was made aware that the selection for redundancy was to be based on a competency based interview. She declined the opportunity for an individual session with DM and HR. The Tribunal is satisfied that the competency based interview process was both fair and objective. The claimant, who was clearly dissatisfied with the process, told the Tribunal that she did not think that the grievance procedure in her contract of employment could be applied to selection for redundancy. She further thought that she should still be entitled to a redundancy payment if she accepted redeployment to a lower paid position. The claimant was ill informed on both these matters. For all these reasons the Tribunal is satisfied that the selection of the claimant as a candidate for redundancy was not unfair. Accordingly, the claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

The claims under both the Redundancy Payments Acts, 1967 to 2007 and the Minimum Notice and Terms of Employment Acts, 1973 to 2005 were withdrawn.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)