

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD1966/2009

against

EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr C. Corcoran B.L.

Members: Mr. M. Flood
Mr D. Thomas

heard this claim at Dublin on 1st November 2010

Representation:

Claimant : Mr Andrew Whelan B L instructed by
Brian A. Rennick, Solicitors, Main Street, Dunboyne, Co. Meath

Respondent : Mr Tim O'Connell, IBEC, 84/86 Lower Baggot Street, Dublin 2

The determination of the Tribunal was as follows:

Preliminary Issue

Respondent's Case

It was the company's contention that the Tribunal had no jurisdiction to hear this case. At the time of the claimant's redundancy in June 2009 she was presented with a letter that included the following paragraph:

It is understood by both parties that acceptance of the terms and conditions outlined in this letter is in full and final settlement of any dispute with the company in respect of any matter whatsoever and howsoever arising from your employment by the Company. It is also agreed that you shall have no further cause of action against the Company in respect of any matter relating to your employment.

The area operations manager who handed that letter to the claimant described its contents and layout as standard. The purpose of that letter and in particular that paragraph was to conclude matters between the respondent and the claimant. However, he accepted that he neither went through the contents of that letter with her nor offered her an explanation on those contents. He did not foresee any future disputes with the claimant as a result of her redundancy. The witness added

that at no time from the consultation process up to her cessation of employment did the claimant object to her proposed and announced redundancy. The claimant signed an RP50 form and took payment of her statutory monetary entitlement in early June 2009.

In accordance with company policy and practice the respondent also furnished the claimant with an ex-gratia or non-statutory payment. Again the claimant accepted that money without commenting on her situation or the way she was selected or treated. Both the witness and the claimant parted on amicable terms.

The human resource planning and development manager had by 2008 become very experienced in dealing with redundancy cases as the respondent's workforce was being significantly reduced due to a noticeable decrease in their operations and an increase in their financial losses. She explained that the wording in the letter that issued to the claimant was used in all cases of redundancy and that the purpose of that quoted paragraph was to inform its recipients that there was now nothing outstanding between them and the respondent as a result of their redundancy. This witness had no knowledge and was not made aware of the claimant invoking the company's grievance procedure in relation to this case.

Claimant's Case

The claimant remembered receiving a letter in an envelope from the area operations manager in early June 2009 when she also signed an RP50 form and collected her departing payments. She did not read it at the time but took it home with her. No explanation was given to her about its contents and she never raised any objection or grievance to the respondent about her redundancy process. However, she told the Tribunal she was chosen for redundancy as she had "too much baggage" compared to some of her former work colleagues. She also accepted that a genuine redundancy situation existed within the respondent. The claimant signed the following undated statement and addressed it to the respondent's two witnesses.

I would like to leave during the 30 day period by my own choice and that I wish to terminate my employment on 04/06/09.

At the time of her redundancy the claimant commented that she was "all over the place."

Determination

Based on the facts and evidence presented at this hearing it is the view of the Tribunal that a genuine redundancy existed in this case and that the claimant accepted the terms and conditions attached to this redundancy. The claim under the Unfair Dismissals Acts, 1977 to 2007 falls.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

