

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE
- *appellant*

CASE NO.
RP1456/2010

against

EMPLOYER - *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J. Lucey

Members: Mr D. Hegarty
Mr O. Wills

heard this appeal at Cork on 1st November 2010

Representation:

Appellant: In person

Respondent: Mr Simon Kelly, Donegans, Solicitors, 6 Union Quay, Cork

The decision of the Tribunal was as follows:-

At the commencement of the hearing the respondent consented to the amendment of the T1A to reflect the correct respondent.

Appellants Case

The appellant gave direct sworn evidence that she was on maternity leave from the 19th October 2009 and was due back to work on the 17th April 2010. She explained that you are required to contact your employer five weeks before you are due back to work. She telephoned the respondent on the 15th March 2010, the respondent informed her that he would not have full-time work for her that he would be letting her go. The respondent was going to check how statutory redundancy worked and he would revert back to her. She telephoned him again on the 6th April to request a letter so she could apply for job seekers allowance. She continued to try and contact him between this date and the 16th April 2010 to establish her position. On the 16th April 2010 she texted the respondent as to when she could collect her redundancy, he telephoned and told her he could not afford the redundancy and offered her a two day week. She explained that for five weeks she was led to believe that she was being made redundant, a two-day week was not enough for her, she

needed full-time work.

Respondent's Case

The respondent gave direct sworn evidence. He recalled the telephone conversation he had with the appellant on the 15th March 2010. He had informed the appellant that he did not have full-time work available; he also mentioned the possibility of part-time work. He also said he was not up to speed on redundancy, however there was no agreement made between them to make the appellant redundant. He could not afford to pay the appellant redundancy. He explained that at this time he employed nine people, the appellant was his only fulltime member of staff. Currently he employs seven; one employee had left due to a back injury. He had offered the appellant alternative employment but the appellant's emphasis was on redundancy.

Determination

Having heard the evidence adduced the Tribunal determines that a genuine redundancy situation existed therefore the appeal under the Redundancy Payments Acts, 1967 to 2007 succeeds. Accordingly the Tribunal awards the appellant a redundancy lump sum payment under the Redundancy Payment Acts 1967 to 2007 based on the following information:

Date of Birth:	12 th May 1980
Date of commencement of employment:	20 th November 2006
Date of termination of employment:	18th April 2010
Gross weekly pay:	€443.92

This award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)