

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:
EMPLOYEE

CASE NO.
UD1045/2009

RP1184/2009

MN1058/2009

Against

EMPLOYER
under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly BL
Members: Mr. L. Tobin
Mr J. Jordan

heard this claim at Wicklow on 8th April 2010

Representation:

Claimant:

The claimant in person

Respondent:

Mr. Jim Stafford, Friel Stafford, Corporate Recovery, 44 Fitzwilliam Place, Dublin 2

The determination of the Tribunal was as follows:-

At the outset the claimant withdrew his claim under the Redundancy Payments Acts, 1967 To 2007.

Respondent's case

Due to a downturn in the economy there was a shortage of work available and the claimant was placed on temporary lay-off from 18/12/08. The claimant then applied for a redundancy lump sum payment on 02/02/09 and he was advised of his rights.

At the time of lay-off some work was being completed by other employees, who were of a different grade to the claimant, but there was no work available for the claimant. The rest of the employees were made redundant in March '09 and the company went into liquidation on 06/07/09.

Claimant's case

The claimant agreed that he had been on temporary lay-off and had subsequently applied for a redundancy lump sum. However he felt that he should have been one of the last instead of one of the first three employees to be placed on lay-off. The claimant's skill sets were greater than others that were kept on and he stated that he would have performed the duties assigned to those employees.

Determination

The Tribunal finds that no compelling evidence was presented to it in relation to unfair selection for redundancy and therefore the claim under the Unfair Dismissals Acts, 1977 To 2007 fails.

Having considered the evidence presented to it the Tribunal is satisfied that the appellant requested his redundancy entitlements in the course of his lay off.

The legislation stipulates that in circumstances where an employee seeks redundancy entitlements whilst on lay off he cannot work out his minimum notice and therefore cannot be paid in lieu thereof.

Therefore the appeal under the Minimum Notice And Terms Of Employment Acts, 1973 To 2005 fails

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

