

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

UD1702/2009

Against

EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr. J. O'Neill

Mr J. Flannery

heard this claim at Dublin on 17th June 2010

Representation:

Claimant:

The Appellant in person

Respondent:

Matheson Ormsby Prentice, Solicitors, 70 Sir John Rogerson's Quay, Dublin 2

The determination of the Tribunal was as follows:-

A preliminary issue arose as to whether the Tribunal had jurisdiction to hear this case as the form T1A was received beyond the six months allowed within the act. However the Tribunal are satisfied that this claim had been lodged with the Rights Commissioner within the prescribed time scale and therefore the Tribunal has jurisdiction to hear it.

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Respondent's case

The respondent gave evidence as to the downturn in business that led to a necessity to downsize the work force. The claimant had been employed as I.T. Manager. Approximately three years before the claimant was made redundant the company had taken on another employee to assist the claimant.

The role of the I.T. Manager initially had been to set up a computer system to suit the requirements of the company. However this having been achieved, the emphasis switched to a requirement for maintenance of this system. At the time of the redundancy the respondent felt that there was no longer a need for an I.T. Manager and therefore dismissed the claimant on the grounds of redundancy. Some of his duties were devolved to his assistant who remained with the company. The respondent continued to employ the assistant because they felt that this position was still required and the skills set and experience of the assistant was pertinent to the position.

Although the respondent did not conduct any formal consultation procedure with the claimant prior to making him redundant they stated that he would/should have been aware of the situation through informal discussions with colleagues. The respondent did not make an offer of alternative employment within the company because they felt that there was no such alternative employment available.

Claimant's case

The claimant gave evidence as to his role within the company and specifically in relation to a breakdown of tasks. However there was a significant disagreement between the parties as to the percentage of time dedicated to each task.

According to the claimant his role and that of the assistant had devolved to such a degree that they were both doing the same job. Therefore the claimant held that he should have been kept on and the assistant made redundant. There had been no consultation with the claimant prior to his redundancy and he was taken by surprise when he was informed of this. When he enquired about alternative employment within the company he was told that there was a possibility of another position but subsequently no such offer was made to him.

The claimant stated that, despite making efforts to secure employment, he has not returned to work since termination of his employment with the respondent. At the time of the hearing the claimant was in receipt of Illness Benefit from the Department of Social and Family Affairs and gave the following information in relation to benefits he received.

1. Illness Benefit from October 2008 to 21st March 2009
2. Job Seekers Benefit from 22nd March 2009 to 9th November 2009.
3. Illness Benefit from 10th November 2009 to date of hearing.

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Determination

Having heard all the evidence the Tribunal is of the view that a redundancy situation existed. However the respondent engaged in no consultation with the claimant and the procedures adopted by the respondent were inadequate and flawed. While it appears to the Tribunal that the outcome might have been the same if the respondent had engaged with the claimant, on balance and taking into account all the circumstances the Tribunal awards €9,000.00 to the claimant as compensation under the Unfair Dismissals Acts, 1967 to 2007. This award is over and above and in addition to any amount already paid by the respondent to the claimant in respect of a redundancy lump sum payment.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

