

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE
- *appellant*

CASE NO.

UD491/2009

against the recommendation of the Rights Commissioner in the case of:
EMPLOYER
- *respondent*

EMPLOYER
- *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Ms J. Winters
Ms M. Finnerty

heard this appeal at Navan on 27th January 2010
and 25th August 2010
and 17th December 2010

Representation:

Appellant(s) : In Person

Respondent(s) : In Person

This case came before the Tribunal by way of the appellant appealing against the recommendation of a Rights Commissioner under the Unfair Dismissals Act 1977 to 2007 ref.r-064364-ud-08/JT

Determination

The appellant had an accident, unconnected with work on 10 November 2006 and was absent from work for a period of about 17 months when her employment was terminated. She was still unfit for work at the time of the hearing.

The respondent said that they dismissed her because she was incapable of working, and the Rights

Commissioner agreed that it was reasonable for the respondent to act as it did.

The Tribunal takes the same view as the Rights Commissioner that if she was dismissed because she was incapable of working this would be a substantial ground justifying the dismissal.

An alternative view is that she was dismissed by reason of redundancy, which is also a substantial ground under section 6 (4) of the Unfair Dismissal Act. The appellant had, in fact also brought a redundancy claim to the Tribunal.

On either view the Tribunal finds that the dismissal was not unfair and dismisses the appeal and affirms the decision of the Rights Commissioner.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

