

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE
- *claimant*

CASE NO.
UD1701/2009

Against

EMPLOYER
- *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr P. Hurley

Members: Mr. W. O'Carroll
Ms H. Henry

heard this claim at Galway on 23rd February 2011

Representation:

Claimant(s) : Mr. Philip Ryan, MacSweeney & Company, Solicitors, Lismoyle House,
Merchants Road, Galway

Respondent(s) : No appearance by or on behalf of respondent

Summary of evidence

The Tribunal heard uncontested evidence from the claimant that she commenced working for the respondent in May 2006. She was employed as a financial consultant and earned an annual salary of €30,000. This was increased to €35,000 on 1 January 2007 and later increased to €38,000 in January 2008. These increases were recorded by way of three separate contracts given to her by the respondent. She enjoyed a good working relationship with her employer and there were no performance issues.

Difficulties started to arise in January/February 2009 when the respondent reduced her annual salary to €20,000 without consultation. She did not agree to this reduction which had a dramatic impact on her financial situation. Documentary evidence in support of this reduction in her salary was produced in evidence to the Tribunal. She was telephoned by her employer at 11pm in or around 25 May 2009 and told to take it or leave it. Her duties were also increased and she was expected to perform cleaning and receptionist duties. She accepted that the economic

downturn had a negative impact on the respondent's business and offered to work a reduced working week to reflect this position. This offer was not accepted by the respondent.

She was called to a meeting on 16 June 2009. In attendance at this meeting were herself, her union representative and three persons from the company. It was her intention to inform the respondent of her resignation due to the unfair treatment she was receiving from the respondent. However at the outset of the meeting she was informed that she was being made redundant due to the downturn in economic conditions. This was the first occasion that redundancy had ever been mentioned and no alternatives were put to her. Her employment terminated on that day. She was unemployed for 6 months following her dismissal and currently is in employment earning €20,000 per annum.

Determination

As the respondent company made no appearance at the hearing the Tribunal heard no evidence of financial conditions justifying the claimant's redundancy. Furthermore based on the claimant's uncontested evidence the Tribunal is satisfied that procedures followed by the respondent company in relation to the proposed redundancy were defective in form and substance. No information or data was given to the claimant and no options or alternatives were put to the claimant. In all the circumstances the Tribunal finds that the claimant was unfairly selected for redundancy and therefore unfairly dismissed.

The Tribunal awards compensation to the claimant in the sum of €19,000.00 under the Unfair Dismissals Acts 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

