

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE - **claimant**

UD1280/2009

against

EMPLOYER - **respondent**

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr. J. Reid
Ms. A. Moore

heard this claim at Dublin on 26 May 2010
and 28 January 2011

Representation:

Claimant:

Mr. Aaron Shearer B.L. instructed by Mr. David Doyle,
Doyle Associates, Solicitors, Orchard House,
56 Main Street, Rathfarnham, Dublin 14

Respondent:

Mr. Conor Hannaway, SHRC Limited, Heather House, Heather Road,
Sandyford Business Park, Dublin 18

The determination of the Tribunal was as follows: -

The claimant was employed from July 1999 as a service engineer in the respondent's business supplying specialist goods and services to the graphic arts and printing industries. The respondent represents leading international suppliers of printing equipment and, having been in business some forty years, had a peak of 55 employees, which by early 2009 had reduced to 26 employees.

Service contracts where respondents supply both parts and labour fell by some 25% for 2009 and the respondent also had a newly negotiated labour only contract, of similar value to the total of the parts and labour contracts, with a major supplier of printing equipment to the newspaper industry. The nature of the work necessitates out of hours and call out working, the major supplier demanding the despatch of a service engineer, where necessary, as late as midnight.

As part of this newly negotiated contract the major supplier provided training for the five service engineers in the service team. In an email sent on 27 June 2008 to the respondent's service manager (SM) the major supplier's newspaper service manager confirmed his decision to provide no further training for the claimant as he was "not the right calibre to provide support going forward". It was accepted that the claimant could be used until training was complete as a stopgap measure. On 9 July 2008 the claimant, one of five service engineers, sent an email to SM in which he confirmed his wish not to be involved in late call outs other than what he described as occasional goodwill support.

In March 2009 the respondent's managing director (MD) spoke to the staff about the need for cost reductions and sought volunteers for redundancy. There were no volunteers and a week later on 19 March 2009 MD gave the claimant one month's notice of the termination of his employment by reason of redundancy because of the impact of the worldwide recession, reduced service contract revenue and the claimant's non certification by the major supplier. The claimant was not required to work his notice period.

Determination

The process in carrying out the notification for redundancies was inadequate. The Tribunal accepts that the claimant on the evidence would appear to be the obvious choice for redundancy bearing in mind the major supplier's position with regard to his working on their contract and the fact that the company lost its other contracts on which he could have worked. Given the length of his service and heretofore his excellent record with the respondent and in view of the lack of procedures and the manner in which the respondent dealt with this termination the Tribunal awards the claimant compensation of €5,000.00 under the Unfair Dismissals Acts, 1977 to 2007 taking into account all the circumstances and the fact that he received a redundancy.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)