

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
EMPLOYEE
- *claimant*

CASE NO.
UD2319/2009
MN2157/2009

against

EMPLOYER - *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr J. Goulding
Ms. N. Greene

heard this claim at Dublin on 31st January 2011

Representation:

Claimant: Mr David Miskell, Mandate Trade Union, O'Lehane House, 9 Cavendish Row,
Dublin 1

Respondent: No appearance by or on behalf of the respondent

The determination of the Tribunal was as follows:-

The Tribunal were satisfied that the respondent was properly on notice. The claimant gave sworn uncontested evidence. She was employed as a general manager in a convenience store. She commenced employment in July 2004, a transfer of undertaking took place in September 2008. She maintained that she was unfairly selected for redundancy.

She was in work on Monday 2nd October 2009 when the general manager (A) handed her an envelope with a redundancy calculator in respect of her service enclosed. A informed her that the owner had given his to him the previous Wednesday. She and her union representative met with the proprietor on 5th October 2009. The proprietor informed her that they did not need a general manager and that they were letting her go. She argued that A was also a general manager who had

commenced after her. The proprietor informed her that A had taken over the ex proprietors position.

In essence there was no difference between her and A's role. A had commenced in mid August 2008. At the time of her redundancy she would have been willing to discuss a pay cut, there were three supervisors employed all who had commenced employment after her. She gave evidence of loss.

Determination

Having considered the uncontested evidence the Tribunal find that the claimant was unfairly selected for redundancy. Therefore the claim under the Unfair Dismissals Acts, 1977 to 2007 succeeds. Accordingly the Tribunal award the claimant the sum of €32,000.00 less the sum of €6,108.00 statutory redundancy already received. The Tribunal considered this to being just and equitable in all the circumstances

The claim under the Minimum Notice and terms of Employment Acts, 1973 to 2005 was withdrawn during the course of the hearing.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)