

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:  
EMPLOYEE – *appellant*

CASE NO.  
RP79/2010

against  
EMPLOYER – *respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr G Hanlon

Members: Mr P Pierson  
Mr J Moore

heard this appeal at Mullingar on 16th December 2010

Representation:

\_\_\_\_\_

Appellant(s): Ms Noeleen Geraghty  
Mark Cooney, Solicitors  
5 Garden Vale, Athlone, Co Westmeath

Respondent(s): In person

The decision of the Tribunal was as follows:

As the dismissal was in dispute the appellant gave evidence first.

#### **Appellant's Case:**

The appellant commenced her employment with the respondent in January 1997. She worked as a shop assistant at the respondent's off-licence. The employment was uneventful until three weeks before Christmas 2008 when the respondent told her that he might have to close the off-licence after Christmas as business was quiet. On December 29<sup>th</sup> 2008 the respondent told her that her employment would be finishing four days later and that his daughter could do her hours. The appellant got upset.

The respondent returned 15 minutes later and said she could work a 20-hour week, instead of 40 hours, for another 6 weeks. He said she would get a redundancy payment. He provided her with a

reference shortly after that. He did not change the hours of a part-time employee who also worked at the off-licence.

On January 19<sup>th</sup> 2009 the respondent said she could continue in the employment at the reduced hours. On January 27<sup>th</sup> 2009 she told the respondent that her preference was to work the notice he had given her. She finished her employment on February 7<sup>th</sup> 2009. When she sought a redundancy payment from the respondent he said she was not entitled to a payment as he had offered her to continue working at 20 hours per week.

**Respondent's Case:**

The respondent gave evidence that business at his off-licence reduced when supermarkets began to stay open later. He decided to reduce the opening hours to evenings only after Christmas 2008. The appellant asked for a reference letter before Christmas. On December 29<sup>th</sup> 2008 he told the appellant that he was reducing the opening hours. He gave her the option of which hours she wanted to work. She agreed to work four nights a week and intended to claim a social welfare payment for the other days. She discovered she could not claim a social welfare payment on a four-day week and so she asked to work three days a week and requested a letter for the Office of Social Welfare. She then gave him her notice, as she was not happy with the hours on offer. She was replaced by a new part-time employee.

**Determination:**

Based on the evidence adduced the Tribunal is not satisfied that a redundancy situation existed and note that the position was replaced. Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)