

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE **-claimant**

UD831/2009

against

EMPLOYER **-respondent**

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. P. Hurley

Members: Mr. P. Casey  
Mr. D. McEvoy

heard this claim at Tralee on 18 May  
and 22 September 2010

Representation:

Claimant: Mr. Seamus Dooley, National Union of Journalists, 2<sup>nd</sup> Floor, Spencer House,  
Spencer Row (Off Store Street), Dublin 1

Respondent Mr. Conor Kearney B.L. instructed by Ms. Zoe Mollaghan,  
Fanning & Kelly Solicitors, 2 Hatch Lane, Dublin 2

The determination of the Tribunal was as follows: -

The claimant was employed from October 2004 as a senior sub-editor in the respondent's provincial newspaper business. Prior to joining the respondent the claimant had worked for some seven years on a national newspaper and had become a sub-editor. As a result of that experience and because of the difficulty of recruiting good sub-editors at the time the claimant received a salary beyond that normally paid to employees in that role. The employment was uneventful up to and including the negotiation of a House Agreement for Journalists (the agreement) in September 2008.

The respondent is part of a national newspaper organisation and in 2007 the function of sub-editing was outsourced and all sub-editors positions in Dublin became redundant. As a result of the agreement it was confirmed that the claimant, who was paid above the top of the grade was to receive no salary increases until the pay scale came up to her level of pay. Following the onset of the economic downturn and shortly after the negotiation of the agreement management sought to introduce a salary sacrifice for all staff in the group above a certain level of salary. This included the claimant but not those paid within the pay scale. In the event the staff in the respondent were the only ones to refuse to accept the sacrifice.

In January 2009 the respondent suffered a very serious decline of around 50% in its advertising revenue. This resulted in a rationalisation plan being drawn up after a meeting on 30 January 2009. The Group Managing Director, the Group Human Resource Director (HR), and the Group Editor of the respondent attended this meeting. This resulted in the advertising manager who had left not being replaced, advertising staff being placed on a three-day week and a decision being taken that sub-editing was a luxury the respondent could no longer afford. A decision was taken to make the role of sub-editor redundant across the entire respondent.

Management then met the union to discuss the matter on 9 February 2009. In attendance, in addition to the three on 30 January 2009 were the editors of the respondent's Cork and Kerry publications, the deputy to HR, a union official and two representatives of the journalists at the respondent, one of whom was the claimant. At this meeting it was confirmed that the plan was to reduce the number of executives from five to three by declaring the roles of Assistant Editor North Kerry and News Editor redundant. In the event one of these two accepted a downgrade to a position as a reporter. The positions of the two sub-editors, including the claimant, were declared redundant. As she was in attendance at this meeting the claimant became aware of her situation before the others to be affected.

HR met those to be affected by the rationalisation the following day 10 February 2009 and the news editor and the other sub-editor accepted redundancy packages, the claimant did not. HR would not consider any appeal by the claimant as selection of the claimant as a candidate for redundancy was as part of a function, sub-editor, which was ceasing. The claimant left the employment on 13 February 2009 and received payment in lieu of notice. The editors and assistant editors took over the duties of the sub-editors with no extra pay when the sub-editor positions were made redundant. This was simplified by the respondent deciding to publish in tabloid format only having previously published both tabloid and broadsheet editions.

The claimant's position, whilst accepting there was a need to effect savings, was that she had been selected for redundancy because of her involvement in trade union activities. Her position was further that she should have been considered for an assistant editor's position going forward.

## **Determination**

The claimant accepted that there was a need for the respondent to effect savings and that a reduction in staff numbers was justified. The claimant was employed as a sub-editor, a fact

confirmed at the time of the agreement. The respondent chose to dispense with the position of sub-editor and both people in that role were made redundant. The claimant adduced no evidence to show that her selection for redundancy was based on her trade union activity. For all these reasons the Tribunal is satisfied that a redundancy situation existed and that the selection of the claimant for redundancy was not unfair. Accordingly, the claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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