

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD43/2010, RP58/2010
MN39/2010WT24/2010

against

EMPLOYER

Under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. MacCarthy S C

Members: Mr J. Flanagan
Mr A. Butler

heard this claim at Wicklow on 31st March 2011

Representation:

Claimant : In person

Respondent : Ms Anne Byrne IBEC, 84/86 Lower Baggot Street, Dublin 2

The determination of the Tribunal was as follows:

The appeal under the Organisation of Working Time Act, 1997 was withdrawn at the outset of this hearing.

Having considered the circumstances, documents and submissions, of this case the Tribunal unanimously finds that the appellant did not unreasonably refuse an offer of alternative or further employment with the respondent as defined in section 15 of the Acts. A verbal offer was made to the appellant on 24 July 2009 on further employment and she replied in writing to that offer on 30 July. While giving mixed messages on her intentions to accept that offer the appellant never actually refused that offer. The letter writer reserved her position pending an ongoing query she had relating to her status with the respondent.

In replying to the appellant on 18 August the respondent omitted to address the appellant's query thus placing in an uncertain situation regarding that status.

In allowing the appeal under the Redundancy Payment's Acts, 1967 to 2007 the Tribunal awards

her a statutory lump based on the following:

Date of Birth:	17 September 1964
Date of Commencement :	01 November 2002
Date of Termination:	30 June 2009
Gross Weekly Wage:	€71.25
Amount of Redundancy Payment:	€1021.73

This award is made subject to appellant having been in employment which is insurable for all purposes under the Social Welfare Acts during the relevant period.

Since a redundancy is not an unfair dismissal it follows that the claim under the Unfair Dismissals Act, 1977 to 2007 must fail.

The Tribunal is satisfied that no loss occurred to the appellant under the Minimum Notice and Terms of employment Acts, 1973 to 2005. Accordingly, the appeal under those Acts fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

