

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

EMPLOYEE

UD2475/2009

RP2887/2009

against

EMPLOYER

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr. N. Ormond

Mr. M. O'Reilly

heard this claim at Dublin on 24th February 2011

Representation:

Claimant:

O'Callaghan, Solicitors, 51 Mulgrave Street, Dun Laoghaire, Co Dublin

Respondents:

Ian O'Herlihy, Mason Hayes And Curran, South Bank House, Barrow St, Dublin 4

At the outset a preliminary issue arose as to whether the Tribunal had jurisdiction to hear these cases.

Respondent's case

The respondent stated that the claimant had not been dismissed and that he was still employed as a teacher by the respondent. The employment was not terminated and as such the respondent contended that the Tribunal has no jurisdiction to hear a claim under the Unfair Dismissals Acts or the Redundancy Payments Acts.

According to the respondent the contract of employment included remuneration for extra duties and it could not be that the claimant was an employee two or three times over. A letter from the claimant's solicitor to the respondent was read out. The respondent held that it was clear from this that the claimant's solicitor believed that there had been a unilateral change in the claimant's terms and conditions of employment.

Claimant's case

The claimant's case was that he had been made redundant from posts, which he held separately to that of teacher with the respondent. A letter from the respondent to the claimant stating that the claimant had been made redundant from the post of House Master was referred to. It was also stated that a form RP50 had been issued to the claimant.

Determination

The tribunal is of the view that there is one contract of employment and the claimant is required to teach under that contract. The fact that he performed additional roles and was paid extra remuneration for them by the respondent does not mean that he had a separate contract from the respondent for those additional roles.

On the face of it, it would appear, that the respondent unilaterally altered that aspect of the claimant's contract/employment and that was acknowledged in the letter from the claimant's solicitor to the respondent dated 29th July 2009. The fact that the respondent, ill advisedly, furnished the claimant with redundancy forms does not mean that this was a separate and distinct contract and the fact that they did so does not confer jurisdiction on the Tribunal to hear a case under the Redundancy Payments Acts or the Unfair Dismissals Acts.

Accordingly the Tribunal declines jurisdiction to hear these cases brought under the Redundancy Payments Acts, 1967 to 2007 and the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

