

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:  
EMPLOYEE

CASE NO.  
UD2153/2009

against

EMPLOYER

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. K. T. O'Mahony B.L.

Members: Mr G. Andrews  
Mr D. McEvoy

heard this claim at Tralee on 13th April 2011

### **Representation:**

Caimant : Ms Fiona Lally, Patrick Mann & Company, Solicitors,  
24-27 Ashe Street, Tralee, Co Kerry

Respondent : Mr. Tieran Doherty, IBEC, Gardner House, Bank Place, Charlotte Quay, Limerick

The determination of the Tribunal was as follows:

### **Respondent's Case**

The respondent, which belongs to a large group of companies, is a long established timber importer and provider of buildings materials. By 2007 this group employed up to eight hundred and fifty staff in around twenty branches countrywide. During that year the respondent experienced a noticeable downturn in its business and began losing money. In an effort to control and correct that situation it took a number of measures over the next two years to reduce expenditure. These included the suspension of its sick pay scheme, a revised overtime arrangement, and an increase in its standard working week. In addition all employees' remuneration was decreased. During that period the group's workforce was reduced mostly by means of redundancy.

The group's board of management made the redundancy decisions and its human resource and safety manager (SM) had the task of giving effect to those decisions. SM called to the Tralee branch in early July 2009 and there gave notice to the claimant that the role of credit controller in that branch was facing redundancy. This was the position that the claimant had since her commencement there in May 2005. That role was being centralised to its main office and any

remaining tasks relating to that function would now be done by the remaining staff especially its manager. The respondent was unable to offer her alternative positions and did not compare her role to that of other employees as she did a specific job unique to that branch.

The claimant who was upset at that news commented on the status and ongoing situation about the toilet at this branch. That matter had already been addressed between this manager and the claimant May and June that year. This manager understood and had earlier informed the claimant her complaints over the state of the sole toilet on the premises had been resolved.

The branch manager told the Tribunal that the claimant worked well and was a respected member of staff. He acted on her complaints about the toilet and also informed the human resource manager about those grievances. A part time employee who started in April 2011 only undertook administrative tasks and this witness stated that the claimant's role as a credit controller was not replaced.

### **Claimant's Case**

Apart from acting as the credit controller the claimant also performed some administrative tasks at the Tralee branch. Due to the ongoing cutbacks no cleaning staff were employed to care for the upkeep of the toilet and this contributed to a deterioration in its appearance and functionally. The claimant being the only female employee complained about the effects of that deterioration to the branch manager and the group's human resource manager.

During the redundancy process within the group she had received an assurance from its main office that her job as a credit controller was secure and this function was not centralising. While attending to cash takings one morning in July 2009 the human resource manager presented himself to her saying he had bad news. He then made a "long winded speech" which attempted to justify and explain why she was being made redundant. With a smirk on his face he added that this decision had nothing to do with her complaints about the toilet. She then told the Tribunal that she would not be before it had it not been for that remark. She felt she had "pushed a button" in expressing that grievance. She was displeased and annoyed at the way the human resource manager handled his announcement of her redundancy.

The claimant did not accept her role as credit controller had been centralised to the respondent's main office. She also stated that at the time of her redundancy there was no way there was not enough work for her at that branch.

### **Determination**

There was no doubt that the respondent was financially suffering from the decline in its business from 2007 onwards. The Tribunal accepts that as a result of that downturn in business its requirements for staff would be reduced. Redundancies formed part of its cost cutting measures. Based on the evidence in this case the Tribunal cannot conclude that the claimant's selection for redundancy was unfair. The position and role of branch credit controllers including that of the claimant were being centralised.

From the evidence the Tribunal feels that the claimant accepted her position was being made redundant but was unhappy with the manner in which it was presented to her.

The claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

