

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:  
EMPLOYEE

*-appellant*

CASE NO.  
UD2023/2009

against the recommendation of the Rights Commissioner in the case of:

EMPLOYER

*-respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mrs. M. Quinlan

Members: Mr D. Moore  
Mr C. Ryan

heard this appeal at Dublin on 11th March 2011

#### **Representation:**

Appellant: Mr Richard Grogan, Richard Grogan & Associates, Solicitors,  
16 & 17 College Green, Dublin 2

Respondent: Ms. Madeleine Delaney, Beauchamps, Solicitors, Riverside  
Two, Sir John Rogerson's Quay, Dublin 2

**This case came before the Tribunal by way of an employee appeal of the Rights  
Commissioner Recommendation ref: r-075184-ud-09/GC.**

#### **Respondent's Case**

The respondent is in the business of supplying fish products to the catering market in Ireland and Europe. The respondent employs 34 full-time staff and engages an additional 7-8 temporary seasonal workers to cover the busy Christmas period. The appellant was employed in September 2008 with a number of other people as temporary workers to cover the Christmas period. This temporary employment normally finishes in the last week of December or the first week in January.

The appellant commenced employment on the 30<sup>th</sup> of September 2008 and was verbally informed that her employment was temporary. All the temporary staff were given notice on the 24<sup>th</sup> of December that their employment was being terminated on the 6<sup>th</sup> of January 2009. The respondent does not recall meeting with the appellant on this day. The appellant was on sick leave from the 22<sup>nd</sup> of December so the respondent asked her friend to give her the letter informing her that her employment had come to an end.

The appellant approached the respondent on the 7<sup>th</sup> of January with a medical certificate and asked if her employment had been terminated because she was pregnant. This is the only medical certificate the appellant ever submitted. The respondent informed her that he did not know she was pregnant and that her employment was finishing with all the other temporary workers. The respondent did not meet with the appellant on the 1<sup>st</sup> or 2<sup>nd</sup> of January as he was in Switzerland from the 26<sup>th</sup> of December until the 5<sup>th</sup> or 6<sup>th</sup> of January.

### **Appellant's Case**

The appellant secured employment with the respondent through a friend. She commenced on the 15<sup>th</sup> of September; she was not aware it was a temporary position as she had left a permanent position to take up this employment. The appellant's friend informed her that the respondent would start letting the temporary workers go after Christmas.

On the 23<sup>rd</sup> of December the appellant visited her GP and got confirmation that she was pregnant. The appellant informed the respondent that she was attending her GP. The following day, the 24<sup>th</sup> of December she informed the respondent that she could not work because she was pregnant; he congratulated her and said come back to work later. The appellant attempted to give him the medical certificate but he refused to accept it. An office administrator completed the necessary Social Welfare documentation.

On the 1<sup>st</sup> or 2<sup>nd</sup> of January the appellant met with the respondent and attempted to give him an additional medical certificate; he refused to take it stating that he did not need it. The appellant received the letter giving notice of termination of employment on the 5<sup>th</sup> or 6<sup>th</sup> of January. The appellant met with the respondent and asked if she was being let go because she was pregnant; he responded saying he was not aware that she was pregnant.

### **Determination**

There was a conflict in the evidence provided by both parties to the Tribunal. The Tribunal accepts the evidence of the respondent that the appellant was a temporary seasonal worker and are satisfied that she was not dismissed due to pregnancy. Accordingly, the claim under the Unfair Dismissals Acts, 1977 to 2007 fails. The appeal of the Rights Commissioner Recommendation **ref: r-075184-ud-09/GC** is upheld.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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