

**EMPLOYMENT APPEALS TRIBUNAL**

APPEAL(S) OF:  
EMPLOYEE – *appellant*

CASE NO.  
RP363/2010

Against

EMPLOYER – *respondent*

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms K T O'Mahony BL

Members: Mr J Hennessy  
Ms S Kelly

heard this appeal at Kilkenny on 17th January 2011

Representation:

\_\_\_\_\_

Appellant(s): In person

Respondent(s): In person

The decision of the Tribunal was as follows:

As dismissal was in dispute the appellant gave her evidence first.

**Appellant's Case:**

The appellant worked 37.5 hours a week as a shop and deli assistant for the respondent company. She was on sick leave from around late July 2009 until the end of September 2009. After her return from sick leave her hours were reduced. She then worked for a few hours four or five days a week. She was unable to claim a social welfare payment because of the number of days she was at work and she tried to explain this to her employer. On Monday 9<sup>th</sup> November 2009 she rang her employer for her hours the following week and he told her to come in the following day at 11am. Having worked 1.5 hours on 10<sup>th</sup> November he told her that she could go home as there was nothing left to do. She asked was that it and he said he'd see how things went. There was no further contact between the parties.

**Respondent’s Case:**

A Director of the respondent company gave evidence that he had to reduce the appellant’s hours. She wasn’t happy with the reduced hours and on Tuesday 10<sup>th</sup> November 2009 when he said she could go home she said that it wasn’t worth her while coming in. He considered that she had left her employment. He signed letters for her so she could claim social welfare. The number of hours available varied from week to week. He paid her in cash toward the end of her employment.

Both the appellant and the respondent in response to a request from the Tribunal submitted records of the hours the appellant worked over the last six weeks of her employment.

The respondent company submitted that the appellant was absent from 25<sup>th</sup> July 2009 until Monday 3<sup>rd</sup> October 2009. Thereafter she worked the following hours:

Week of 5/10/09 – 11/10/09:	21 hours
Week of 12/10/09 – 18/10/09:	23 hours
Week of 19/10/09 – 25/10/10:	12 hours
Week of 26/10/09 – 1/11/09:	20 hours
Week of 02/11/09 – 08/11/09:	12 hours
Week of 10/11/09:	2.5 hours – end of employment.

The appellant submitted the following hours for the same weeks:

Week of 5/10/09 – 11/10/09:	17 hours
Week of 12/10/09 – 18/10/09:	23.5 hours
Week of 19/10/09 – 25/10/10:	12 hours
Week of 26/10/09 – 1/11/09:	20 hours
Week of 02/11/09 – 08/11/09:	14 hours
Week of 10/11/09:	2.5 hours – end of employment.

**Determination:**

On her return to work, following a period of absence due to illness, the respondent reduced the claimant’s hours of work. There was no dismissal in this case. The reduction in the appellant’s hours of work did not bring her within the provisions of the Redundancy Payments Acts, which allow for a claim for redundancy in respect of short-time. The appellant pre-empted any possibility of such a claim by leaving her employment. The appeal under the Redundancy Payments Acts, 1967 To 2007, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

