

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYER *-Appellant*

CASE NO.

UD1020/2010

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

EMPLOYEE *-Respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan B.L.

Members: Mr J. Browne
 Mr F. Dorgan

heard this appeal at Carlow on 14th July 2011

Representation:

Appellant: A current and former director of the company.

Respondent: SIPTU, Lower Patrick Street, Kilkenny

The determination of the Tribunal was as follows:

This case came before the Tribunal by way of an appeal by an employer (the appellant) against a Rights Commissioner Recommendation (reference: r-082846-ud-09/EH) under the Unfair Dismissals Acts.

Employer's Case:

The employer appealed the recommendation of the Rights Commissioner dated 2nd March 2010 on the basis that it did not reflect the fact that the Rights Commissioner found that the employee had contributed to her dismissal.

Giving evidence for the employer, the director at the time the employee was employed accepted

that the employer had not afforded fair procedures to the appellant, this was not intentional and the reason was that it was a small business and things were done on a less formal basis. She said the award of the Rights Commissioner, in her opinion, was high, that the employer was a small business and could not sustain this level of award. She told the Tribunal that she felt the level of award did not reflect the fact that the Rights Commissioner had found that the employee had herself contributed to the dismissal. She felt the employee was being rewarded and that the employer was being penalised by the level of the award.

Employee's Case:

The employee disputed that she had contributed to her dismissal. She told the Tribunal she felt the award was low and that the employer could well afford to pay it. The employee said that but for the fact that she was pregnant she would have appealed the recommendation of the Rights Commissioner on the basis that she had not contributed to her dismissal and because she felt the level of award was low.

Determination

Having carefully considered the evidence adduced at the hearing the Tribunal accepts that the lack of formal or fair procedures in the dismissal of the employee by the employer was not intentional. The Rights Commissioner had jurisdiction to award compensation where there is financial loss up to a maximum of 104 weeks remuneration as is just and equitable but awarded considerably less. The Tribunal finds no reason to disturb the decision of the Rights Commissioner. Accordingly, the appeal fails and the Tribunal upholds the decision of the Rights Commissioner dated 2nd March 2010 awarding the claimant an amount of €3,000 under the Unfair Dismissal Acts.

The Tribunal noted the conflict between the parties as to whether the claimant contributed to her dismissal or not.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)