

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

UD278/2010

against
EMPLOYER
under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms D. Donovan
Members: Mr F. Cunneen
 Mr J. Flannery

heard this claim at Dublin on 28th April 2011

Representation:

Claimant:

Ms Ciara Hanratty, Martin Moran & Company, Solicitors, 12 Stephens Lane, Dublin 2

Respondent:

Ms. Anne Byrne, IBEC, Confederation House, 84/86 Lower Baggot Street, Dublin 2

Claimant's case

The claimant was employed as a fund raising manager with the respondent since 1st March 2006 and resigned with effect from 31st July 2009. At the time of his resignation the claimant felt under threat of redundancy and his pay had been reduced by 20%, having previously been €81,000.00. The claimant was under tremendous pressure due to a combination of these factors and the fact that both he and his wife had given up good jobs in Northern Ireland and moved to rented accommodation in Dublin in order for him to take up the position with the respondent.

Having been successful in obtaining another job in Northern Ireland, albeit at a lesser rate of pay (STG£41,000.00), the claimant felt that he was left with no alternative but to resign his position with the respondent. He duly gave the respondent three months notice and left on 31st July 2009. The reason cited to the respondent for his resignation was "personal reasons". However the claimant gave this reason because he wanted to get a good reference and did not want the real reason for leaving to affect his prospects of maintaining his new job in Northern Ireland. The claimant subsequently lodged a claim for constructive dismissal with the Tribunal.

Respondent's case

There had been a severe drop in income from fund raising in 2008 and the respondent realised that there would have to be a review of outgoings. However it was a priority not to reduce services to the clients. Therefore a meeting of senior managers, including the claimant was convened in January 2009 to discuss ways to reduce costs. During that meeting and in the course of subsequent meetings a reduction in wages was discussed. The claimant was involved in these discussions and was part of a team that devised a bonus scheme whereby employees could claw back any reduction in wages.

Ultimately the claimant's salary was reduced by 20% and, as far as the respondent was concerned, this was with the agreement of the claimant. The claimant signed a document agreeing to this pay cut. There were written grievance procedures in place and the claimant never invoked these in relation to any grievance he may have had in relation to the pay reduction.

There was a possibility of redundancies and some have subsequently occurred but there was no specific threat to the claimant's position even though he was not replaced after resigning. The claimant was never told that his position was to become redundant.

A witness for the respondent stated that she received a written resignation from the claimant citing "personal reasons" as the reason for his resignation. The witness accepted this, as she was aware that the claimant, who was a native of Northern Ireland, had secured another job there.

Determination

The Tribunal having carefully considered the evidence adduced at the hearing finds that the respondent did not engage in conduct such as would entitle the claimant to consider himself constructively dismissed. Rather the Tribunal finds that the respondent had a genuine need to reduce its overheads and in order to so do made a decision to reduce salaries and the claimant agreed to this.

Therefore the claim under the Unfair Dismissals Acts 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

