

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE

-Appellant

CASE NO.

RP2244/2010

against

EMPLOYER

-Respondent

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. MacCarthy S C

Members: Mr. E. Handley
Mr. S. O'Donnell

heard this appeal at Dublin on 20th April 2011 and 15th June 2011

Representation:

Appellant: In Person

Respondent: Peninsula Business Services (Ireland) Limited, Unit 3,
Ground Floor, Block S, East Point Business Park, Dublin 3

The decision of the Tribunal was as follows:

The respondent is a small hotel within which the appellant had worked since 1998. From the time of 26th March 2010 the appellant was on sick leave. It was the respondent's case that the appellant was paid by the company during the period of sick leave until its business was adversely affected by the eruption of an Icelandic volcano. Due to the resulting ash cloud and subsequent restrictions on air travel the respondent's business fell dramatically. As a result the manager was faced with the decision of having to place staff on short time.

Letter dated 21st May 2010 informed the appellant that her hours were being reduced from 20 hours to 4 hours per week. He also informed the appellant that the respondent company was no longer in a position to pay wages to her for absence due to illness and that she should make contact with her local social welfare office. The letter also stated that it was anticipated that more hours would become available to the appellant in the coming weeks with the opening of a new pizzeria. The appellant was placed on short time on 28th May 2010 but she did not actually return from sick leave until the 6th June 2010. However, when the appellant returned to work on 6th June she resigned from her employment. The short-time working hours ended for all staff between the 15th and 20th June 2010.

It was the appellant's case that when she returned from sick leave on 6th June 2010 the breakfast area for guests was in disarray. The appellant was the only employee working in this area and she had to both cook and serve breakfast to the guests. When she went to find another employee to assist her she discovered that two employees were not actually carrying out their duties.

The appellant left her workplace that day at 1pm. The following day she telephoned the hotel and the manager said he had been told that the appellant was fighting with other employees the previous day. The appellant felt that she was not wanted there after twelve years service and she said that she thought it was best for her to leave. The manager asked for her to state this in writing but the appellant refused.

Subsequent to this conversation the appellant secured weekend work in another hotel and she sent a text message to the manager asking if her Sunday shift with the respondent could be changed to a mid-week shift. The manager confirmed by text message that she could start to work Wednesdays instead of Sundays.

When the appellant attended for work the following day another employee told her that she had heard that the appellant had resigned. The appellant went to the office where she found her P45 had been prepared. The General Manager handed her this document with a letter dated 7th June 2010. The appellant tried to tell the General Manager about the text she had received from the manager confirming that she was now working Wednesdays but the General Manager did not want to know about it.

Determination:

The Tribunal carefully considered the evidence in this case and is satisfied that the termination of the appellant's did not constitute a redundancy. It is clear from the evidence that the resignation uttered by the appellant related to the disagreement with other staff members and was not in relation to the short-time working hours. The appeal under the Redundancy Payments Acts, 1967 to 2007, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)