

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE - *appellant*

CASE NO.
RP265/2010

against

EMPLOYER - *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. Clancy

Members: Mr G. Andrews
Mr F. Dorgan

heard this appeal at Limerick on 9th May 2011

Representation:

Appellant: Mr. Gerard Tobin, Limerick Citizens Information Centre, 54 Catherine Street,
Limerick

Respondent: Head of Human Resources

The decision of the Tribunal was as follows:

At the hearing the appellant gave evidence. Submissions were made on behalf of the appellant and the respondent.

The appellant was working for FAS and in 1998 she was asked to go and work for the respondent. From the 1st February 1998 until her contract was terminated on the 31st August 2009 she was employed by the respondent. The appellant was employed as a part-time unqualified teacher in sewing instruction. At the time of her commencement of employment with the respondent she was 60 years of age. She did not receive terms and conditions of employment until 2007. Nobody from the respondents had enquired about her age and over the course of her employment she had completed forms for her employer that included her date of birth.

She reported to the same manager over the fifteen years of employment. When she reached the age of 65 she informed the manager, her manager told her that she could continue to work.

The representative for the respondent explained that the centre in which the appellant worked was

independent of the respondents with their own board. The Department of Education and Skills sanctioned the “co-operation hours with other institutions” on a yearly basis. When he had commenced in the position of head of human resources with the respondent in 2005 there were no details on file for part-time teachers including the appellant. He had set about rectifying this and only then became aware of the appellants age. The appellant was issued with a specific purpose contract for 2007 and a fixed term contract for 2008.

The respondent was notified that the centre in which the appellant worked was to close. The appellant along with her two colleagues was notified of the closure and the appellant was informed that she would be retiring. A full-time teacher is obliged to retire at the age of 65 years and the appellant had exceeded the age of retirement. The respondent had done the appellant a favour by keeping her on beyond this age.

The appellant’s two colleagues were redeployed. The appellant’s job is now defunct as there is no demand for sewing classes. Permanent employees of the respondent are obliged to retire at 65 years of age and they are not entitled to a redundancy payment

Determination.

The Tribunal having carefully considered the evidence find that a genuine redundancy situation existed. The respondent in his submission informed the Tribunal that the appellant’s skill set was redundant. Accordingly the Tribunal find the appellant is entitled to a redundancy lump sum under the Redundancy Payments Acts 1967 to 2007 based on the following criteria;

Date of Birth:	22 nd October 1938
Date of Commencement:	14 th January 1998
Date of Termination:	31 st August 2009
Gross Pay:	€502.56

Please note that this award is made subject to the appellant having been in insurable employment under the Social Welfare Acts during the relevant period.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)