

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:
EMPLOYEE

CASE NO.
RP937/2010

Against

EMPLOYER

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. E. Daly B.L.

Members: Mr. D. Morrison
Ms. R. Kerrigan

heard this appeal at Letterkenny on 18th May 2011

Representation:

Appellant:

Mr. Cathal Quinn, Quinn, Dillon & Company, Solicitors,
Crossview House, Letterkenny, Co Donegal

Respondent:

Mr. Seamus Farren, Farren Roarty, Accountants, Thorn Road,
Magherennan, Co. Donegal

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

Appellant's Case:

The appellant commenced his employment with the respondent in October 2005. He worked as a construction operative. On 18th March 2009 an incident occurred in a public house which is owned by the respondent company.

The claimant was due at work but did not attend on 18th March 2009.

On the 19th March the claimant phoned the company to find out about work for that day. He was told that P.D., a director of the company wanted to speak to him. At a brief meeting he was told that there was no more work for him. No mention was made of the incident on the 18th March.

The appellant did say sorry for missing the previous day and was surprised at being let go but he was aware that two people had already been laid off.

Respondent's Case

P.D. the director of the respondent company stated that he had employed the appellant. He found him to be a good employee until approx one year before he was let go. His attitude changed and his attendance became erratic. He believed he had begun playing in a band.

His foreman had complained about his attendance and verbal warnings were issued by P.D.during the year.

There was work for the appellant and the company had to get assistance after they dismissed him.

A member of staff who was employed on an ad-hoc basis was given a full time position.

The incident in the public house was the reason for the dismissal. P.D had been told that a member of his staff had been threatened.

It was the first thing that P.D. spoke about during the meeting. The appellant asked him to reconsider his decision and he was told that he had already been given enough chances.

Determination:

Based on the evidence adduced the Tribunal is not satisfied that a redundancy situation existed within the respondent company and note that the appellant was replaced.

Accordingly, the appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

