

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE-Appellant

CASE NO.
UD1195/2010

against

EMPLOYER-Respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J. Sheedy

Members: Mr D. Hegarty
Mr D. McEvoy

heard this claim at Cork on 21st October 2011

Representation:

Claimant: Mr. Paudie O'Mahony, Babington Clarke & Mooney, Solicitors,
48 South Mall, Cork

Respondent : Mr Tiernan Doherty, IBEC, Knockrea House, Douglas Road, Cork

The determination of the Tribunal was as follows:

Respondent's Case

The respondent, which forms part of a large group of companies, is involved in the fire protection and safety business. That group took over the respondent in 2008 with a workforce of no less than a hundred and forty. Its main office is based in Cavan while its operations are conducted throughout the State through a number of regional offices. The managing director of both the group and the respondent told the Tribunal that following a modest profit for the respondent in 2008 it sustained substantial losses for the following two years. In an effort to reduce overheads the respondent initially imposed pay freezes and actual reductions to employees remuneration, the latter move meeting some resistance. By the autumn of 2008 the company started shedding jobs of its employees and that included the claimant who was declared redundant in February 2010. By October 2011 the respondent's total workforce numbered seventy-one.

The respondent was divided into several divisions and the claimant as a sales/service representative belonged to the portable division. He covered counties Cork and Waterford the latter being his principal location. In February 2009 his sales targets were significantly and unilaterally increased. According to the witness this was necessary as to allow the company to make a profit. Figures supplied by the respondent indicated that the claimant did not reach the new target throughout that

year.

The witness met the claimant in mid February 2010 and notified him of his redundancy. The claimant subsequently signed a statement accepting that decision and payment. While no alternatives were offered to the claimant he in turn neither objected nor appealed that decision. In reaching that decision the respondent compared the claimant's position, length of service, capabilities to colleagues based from Waterford and Cork. As a result of that exercise the claimant was chosen as the employee whose job would be lost. His position was not replaced.

Claimant's Case

The claimant commenced employment with the respondent in March 2007. Being resident equidistant from the cities of Cork and Waterford he worked in both countries. More than half of that workload was conducted in the former county. He labelled the unilateral increase in sales targets imposed in February 2009 as crazy and objected to it. In February 2010 the claimant signed an acknowledgment of his forthcoming redundancy and accepted certain payments related to that event. While he was aggrieved at that news he felt compelled to sign that form for financial and domestic reasons.

Determination

Having carefully considered the evidence the Tribunal finds that the dismissal of the claimant by the respondent by way of redundancy was fair and reasonable. Accordingly, the claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

