

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.
RP2980/2009

EMPLOYEE - *claimant*
UD2545/2009

against
EMPLOYER
- *respondent*
under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr D. Hayes

Members: Mr D. Peakin
Mr N. Dowling

heard this claim at Dublin on 10th March 2011

Representation:

Claimant(s) : Triana, Independent Advice, & Information Bureau, 13 Store Street, Dublin 1

Respondent(s) : Paul W. Keogh & Co, Solicitors, 103 Lower Baggot Street, Dublin 2

The determination of the Tribunal was as follows:-

At the outset the claim under the Unfair Dismissals Acts, 1977 to 2007 was withdrawn.

Background:

The claimant was employed in housekeeping. On December 31st 2008 she submitted a medical certificate regarding her pregnancy. On her return to work she was informed that there was no work for her due to the downturn in business. The staff working there were on reduced hours and the respondent had sufficient staff. She was then offered weekend work only but she turned down the offer as the amount earned would not cover her babysitting fees.

The respondent agreed that staff hours were reduced and could only offer weekend work to the claimant which she turned down. In May 2009 she approached the HR manager asking for a weeks work in order for her to claim state benefit. The HR manager told her she could not give her the

work as she was eight and a half months pregnant and would not be insured.

Determination:

The claimant commenced her employment with the respondent in October 2005. In late 2008 she developed pregnancy-related complications and required time off work. She was due to return to work on 2nd January 2009. Shortly before her return she was informed that her hours, in line with the respondent's other employees, were to be reduced. The Tribunal is satisfied that the claimant left her employment. She asked for and received a letter for Social Welfare purposes. She had been due to commence maternity leave on 4th May 2009. Shortly before this, the claimant returned and asked to work. She had built up insufficient credit to qualify for maternity benefit and required one more week. The respondent refused on the basis that the claimant was over 8½ months pregnant and they would not insured to employ her.

The Tribunal is astisifedi that the claimant voluntarily left the respondent's employment and wasnot dismissed by reason of redundancy. Accordingly, the claim under the Redundancy PaymentsActs, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)