

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYER

appellant

UD1510/2010

against the recommendation of the Rights Commissioner in the case of:

EMPLOYEE

respondent

and

EMPLOYER

appellant

Under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms O. Madden B.L.

Members: Mr. B. Kealy
Mr F. Keoghan

heard this appeal at Dublin on 9th December 2011

Representation:
Appellant(s):

Respondent(s):

The determination of the Tribunal was as follows:-

This case came before the Tribunal by way of an employer appealing against the recommendation of the Rights Commissioner dated 5th May 2010 reference r-083619-ud-09/RG.

Appellant's Case

The financial controller told the Tribunal that the business was established over thirty years ago and it provided utility services to the local authority. The respondent worked in the water department in an administrative capacity. He was responsible for HR and administration. The water contract that the respondent had was phased out and it had a limited number of

commercial customers. There was insufficient work to redeploy the respondent. He used a matrix when selecting employees for redundancy. This matrix was given to employees. Employees had the opportunity to appeal the decision to make them redundant but he did not receive any queries regarding the matrix. He was surprised when the respondent lodged an appeal with the Rights Commissioner. He believed a meeting took place on the 25th May 2009.

PC who joined the company on 5th January 2009 was retained but he had an environmental degree and worked on attaining ISO14001. PC left the appellant in October 2009 and he was not replaced. Approximately nine to ten females worked in the same area as the respondent.

In cross examination he stated that an employee KB who commenced work in the water department on the 10th May 2006 was made redundant as there was no work for her to return to after her maternity leave. The appellant endeavoured to redeploy employees if it could. He discussed the process with employees. The matrix was prepared prior to the redundancies being implemented.

Respondent's Case

The respondent told the Tribunal that she commenced work with the appellant on the 25th April 2007. She was on maternity leave from the 20th June 2008 until 11th April 2009. She was made redundant on the 5th May 2009 after her maternity leave. She was invited to a meeting but she was in Poland. She received a form and a letter regarding her redundancy. While she was employed with the appellant two employees did not return after maternity leave. She believed it was unfair

In cross examination she stated that her colleague MP complained that she was made redundant. She sought employment after she was made redundant and she was in receipt of job seekers allowance. She obtained alternative employment at the commencement of December 2011 for which she receives the minimum wage. She received €250.00 to €400.00 for a temporary job that she undertook. She received a redundancy lump sum payment.

Determination

The Tribunal finds that a genuine redundancy situation existed and the respondent received a redundancy lump sum payment. The respondent's case under the Unfair Dismissals Acts, 1977 to 2007 fails and the Tribunal therefore upsets the recommendation of the Rights Commissioner.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

