

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:

**CASE NO.**

EMPLOYEE

- *Claimant*

UD1222/2010

Against

EMPLOYER

- *Respondent*

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr M. Gilvarry

Members: Mr T. Gill  
Ms H. Henry

heard this claim at Galway on 29th November 2011

Representation:

Claimant(s) : In person

Respondent(s) : William Fry, Solicitors, Fitzwilton House, Wilton Place, Dublin 2

The determination of the Tribunal was as follows:-

**Claimants Case:**

The claimant gave evidence of employment in the administration unit of the respondent in 2002 to 2009. Her duties involved clerical administration work. She previously worked with the respondent as an instructor. The work assigned to her was not suitable as she has a form of dyslexia. She told the Tribunal that on several occasions she requested training in order to improve her efficiency in the clerical role and also sought internal transfers within the administration unit but was never given any training or any opportunity to work in a different area. The claimant stated that she had been bullied and laughed at on a number of occasions in an open plan office environment. In her evidence she told the Tribunal that she reduced her working hours initially as she could not work in such an environment and eventually applied for and was granted early retirement.

## **Respondents Case:**

The representative on behalf of the respondent submitted that this was not constructive dismissal as suggested but was a measured decision to retire by the claimant.

## **Determination:**

The Tribunal carefully considered the evidence and submissions made by both parties.

Dismissal was in dispute and therefore the onus was on the claimant to prove to the Tribunal that she was in fact dismissed. She herself had terminated her contract by accepting early retirement and so it fell to her to satisfy the Tribunal that it was reasonable for her to have terminated the contract due to the conduct of the employer.

The claimant readily admitted that she had applied for and had been granted an enhanced early retirement package. She however stated that she had done so due to the unreasonable conduct of the employer. Her evidence was that she felt completely undermined by the failure of the respondent to provide her with additional training and/or to move her from clerical duties for which she was ill-suited and which were not the best application of her skills and talents. She also gave evidence of several incidents of bullying which she had complained of up to 2009 and a separate incident of bullying involving MB.

The Tribunal noted that these incidents had been dealt with by an internal procedure and appeal to Labour Relations Commission and Labour Court and no adverse finding in relation to bullying was found. The Tribunal noted with some concern the contents of a letter dated in 1995 which would have been extremely relevant had there been a dismissal at that stage but considered so much time had passed that this letter was no longer relevant to the claimant resigning.

The claimant also mentioned the question of her dyslexia but the Tribunal was not convinced that this had been reported to the respondent at any relevant stage.

Finally the Tribunal noted that the claimant had experienced some difficulty with pension entitlements and back pay but these difficulties were ultimately resolved and did not justify a resignation by the claimant.

The Tribunal concludes that there was no reasonable justification for the claimant to resign

from employment with the respondent and while the Tribunal has every sympathy for the claimant does not consider she has made out her claim in law.

The Tribunal therefore dismisses the claim.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)