

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:

EMPLOYEE *-appellant*

Against

EMPLOYER *-respondent*

under

CASE NO.
RP727/2011
MN568/2011

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr L. S. Ó Catháin

Members: Mr D. Hegarty
 Ms H. Kelleher

heard this appeal at Cork on 20th January 2012

Representation:

Appellant: Independent Workers Union, 55 North Main Street, Cork

Respondent: In Person

The claim under the Minimum Notice and Terms of Employment Acts 1973 to 2005 was withdrawn at the outset.

Appellant's Case

The appellant was an international lorry driver for the respondent. He commenced work in April 2007. The appellant's employment was uneventful until December 2010. On the 20th of December 2010 the appellant returned from an international job. The appellant returned home as normal, expecting to get a call for the next job at some stage. The appellant received a call for work between Christmas and New Year's Eve but had to decline the job due to personal circumstances.

The appellant's colleagues made him aware that a meeting was held for the respondent's staff on the 3rd of January 2011 which the appellant was not invited to attend. Two other staff were not invited, all of whom refused to sign the latest employment contract. All the staff had taken pay cuts and changes to their Terms & Conditions of Employment. The latest contract was a step too far for the appellant. Even though the appellant did not sign the new contract in November his pay was still reduced in line with all the other staff.

On the 5th of January 2011 the appellant and the other two staff members went to the respondent premises and asked why they were not invited to the staff meeting. When the appellant inquired about his future with the respondent he was informed that, as he would not sign the contract he would not be given any further work.

Respondent's Case

The respondent is a large courier company that are engaged on a contract basis by larger firms. The respondent had to reduce pay and introduce lesser contracts in order to keep the respondent going and the staff in employment. All the staff except three signed the new contract. The contract was in part to satisfy the larger third party that had engaged their services. The respondent denies that a staff meeting took place on the 3rd of January 2011. The appellant was offered a job between Christmas and New Year's Eve. The appellant was scheduled to work and had no holidays planned. The appellant's refusal to do this job put the respondent in a badposition with the larger firm they hold the contract with.

On the 5th of January the appellant and two other staff members asked to meet with the respondent. The appellant's asked if their reduction of pay was being reversed and if not would they be made redundant. The respondent explained that the pay cut was necessary, but that it was not a redundancy situation so redundancy for the appellant does not arise. The appellant was not offered any further work as he had said he was leaving.

Determination

The appellant was a permanent employee with the respondent up until the 31st of December 2010. The Tribunal find that he refused to obey lawful instruction and refused a subsequent offer of employment, accordingly the appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)