

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE

RP2936/2010

Against

EMPLOYER

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. M. Gilvarry

Members: Mr. D. Morrison  
Mr. M. McGarry

heard this appeal at Castlebar on 6th March 2012

Representation:

Appellant:

Ms. Anne Coyne, Citizens Information Centre,  
Cavendish House, Link Road, Castlebar, Co Mayo

Respondent:

#### **Appellant's case**

The appellant commenced employment with the respondent on 21<sup>st</sup> December 2006. She became pregnant and was in receipt on Maternity Benefit from 20<sup>th</sup> April 2009 to 17<sup>th</sup> October 2009. When the appellant was fit to return to work after her Maternity leave she was given a letter stating that there was no work available to her for at least six months.

The appellant referred to a form RP9, a copy of which was submitted to the Tribunal, and stated that she had sent this "to Dublin, big building, employment something". This RP9 was completed at Part B: Notice of intention to claim Redundancy Lump Sum Payment in Lay Off/Short Time situation. The Tribunal asked the appellant if she had sent the RP9 to the respondent and she replied "They said I must sent it to Dublin, Citizens Information said I must send it to Dublin".

The appellant looked for a return to full time work as she had been working full time before becoming pregnant. However the respondent did not offer her a return to work on a full time basis and therefore the appellant contested that she was entitled to a Redundancy Lump Sum.

**Respondent's case**

The witness for the respondent confirmed that the appellant was placed on temporary lay-off from October 2009. However he stated that she never approached him again until February 2010, at which point he offered the appellant a return to work on the same basis as she was previously employed. A copy of the appellant's Terms and Conditions of Employment, signed by the appellant and dated 26<sup>th</sup> December 2006, was submitted to the Tribunal. This document described the position as "of a part time nature".

The appellant did not accept this offer of re-employment and the respondent therefore contented that the appellant had resigned.

**Determination**

The Tribunal carefully considered the evidence adduced and found that there was a clear conflict in evidence between the parties. On the balance of probabilities the Tribunal prefers the evidence of the respondent and is satisfied that the appellant was offered a return to work on the same basis as she had previously been employed but refused this offer.

Therefore the appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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