

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD1463/2010

against

EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J. Lucey

Members: Ms M. Sweeney
Mr D. McEvoy

heard this claim at Tralee on 6th March 2012

Representation:

Claimant : Mr. John Kane, SIPTU, Connolly Hall, Upper Rock Street, Tralee, Co Kerry

Respondent : Ms. Aoife Newton, IBEC, Gardner House, Bank Place, Charlotte Quay, Limerick

The determination of the Tribunal was as follows:

Respondent's Case

The respondent is a semi state body that controls, promotes and regulates the greyhound industry and racing in the country. Its main revenue sources included government funding and income from its activities. By 2009 the respondent's turnover and revenue had declined compared to earlier years and according to its human resource manager costs had to be reduced. A cost reduction exercise was introduced that included making a significant number of employees redundant. It was the respondent's wish to treat those redundancies as voluntary in name and nature.

This manager met the claimant on 26 August 2009 when he informed him that he was facing redundancy. The redundancy package consisted of its statutory element together with an *ex gratia* payment. The respondent had no suitable alternative positions for the claimant and he was not interested in other options. By that time the claimant had applied for other roles with the respondent but his applications were unsuccessful. Due to the claimant's resistance to that redundancy offer the respondent temporarily extended his employment while attempting to revisit and conclude this case. This conclusion took the form of compulsory and statutory redundancy presented to the claimant some months later. The redundancy cheque sent to the claimant was returned.

Claimant's Case

The claimant commenced employment as an assistant racing manager with the respondent in March 2004. Prior to his appointment as a sales executive for the Munster region in May 2008 he had been from June 2005 a national racing promotions executive. Up to 2009 he had not detected any drop in sales and there was no data available to show the respondent's contention to the contrary. He was shocked at the notification of his redundancy but had been aware that several others had accepted a voluntary package. The claimant did not accept a redundancy situation existed in his case and raised the issue of being appointed to a vacancy at the Limerick track at a meeting on 26 August 2009. He also cited comparators in claiming he was at least sufficiently qualified and experienced as them when it came to redundancy and redeployment.

The claimant told the Tribunal he was willing to apply maximum flexibility to his work roles prior to his cessation of employment. However he was not given the opportunity to do that and a possible leave of absence was not guaranteed to reinstate him back to work.

Determination

In favouring the respondent's side in this case the Tribunal recognised that the employer was facing financial difficulties at the relevant time. The Tribunal further accepts that cost cutting measures had to be implemented and that no suitable alternative positions were available to the claimant in that process. Furthermore, the respondent's efforts to ease the redundancy experience for the claimant, while not acceptable to him, was a sign that the respondent was sensitive to his situation.

The claim under the Unfair Dismissals Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

