

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE-*Appellant*

CASE NO.
UD1195/2011

Against

EMPLOYER-*Respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr P. O'Leary B L

Members: Mr P. Pierson
Mr O. Nulty

heard this claim at Cavan on 6th June 2012

Representation:

Claimant: In person

Respondent: Ms Louise Harrison, William Fry, Solicitors, Fitzwilton House,
Wilton Place, Dublin 2

Respondent's case

The General Manager for the company gave evidence that the company serviced offices with bottled water and had up to 75 people employed until a downturn from 2007 onwards. Profits/turnover declined by up to 50%. The company now employ 40 people. The GM said that the company looked at ways to reduce cost and pay-cuts were introduced in 2009 and 2011. There were two depots in the area of Cavan and Louth. Both depots were relocated to Kells, Co Meath and the company was forced to look at redundancies. It was necessary to make 2 people out of 5 redundant, the claimant being one of them. The company firstly looked for voluntary redundancies and when they didn't receive any requests for same they met with everybody on an individual basis and a criteria was agreed. The company did not use last in first out as they felt it an unfair process but if they had used that process the claimant would have been an automatic selection. Individuals were scored under 8 headings with a strong emphasis on customer service. The claimant came second lowest in the scoring process and was advised by letter of the outcome. The General Manager met with him on December 8th and discussed the outcome, the claimant was unhappy with one or two of the scores and the GM went through it with him. They talked about other avenues and the GM said he would make enquires about positions which may be available in Dublin. After speaking to the distribution manager for the Dublin area it was obvious that the

figures did not stack up and it wasn't feasible to offer him any position.

Under cross examination the General Manager said that customers were sent questionnaires once a year with an invoicing statement to enquire about the service being provided. Drivers were notified of any good or bad feedback. The claimant had not received any bad feedback from the customers but had received negative comments from management and sales staff. There was an incident with a customer that was confrontational which the GM had to sort out personally. When it came to scoring it was found that others never had a problem.

Even though the RP50 was dated 8th December minds were not made up at that time. The date was used to calculate the amount of redundancy so the claimant would be aware of it at the meeting.

Notice was given a few days later when the possibility of a job in Dublin was a non-runner.

Claimant's case

The claimant in his sworn evidence stated that all staff realised it was a bad time for the company and sales had dropped. Everybody was working hard to keep things going. When people were called individually to a meeting the claimant felt he had no problems. He was not aware he had ever received verbal warning. He assumed that a person let go the week before was the only redundancy that would occur and felt the redundancy was unjustified at a time coming up to Christmas.

Under cross examination the claimant said there were two missed calls on his phone after the meeting but nobody left a message for him. The incident with the customer was because of a misunderstanding and he never felt he was in the wrong.

Determination

Having considered the evidence adduced the Tribunal is satisfied that a genuine redundancy situation existed at the time of the claimant's dismissal. Furthermore the Tribunal is satisfied that fair procedure was followed in the selection of the claimant for redundancy. The company adopted a fair and reasonable matrix in considering which positions were to become redundant.

Therefore the Tribunal finds that the claimant was not unfairly dismissed and the claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

