

## EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:  
EMPLOYEE *-claimant*

CASE NO.  
UD2005/2010  
WT888/2010

against  
EMPLOYER *-respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. T. Ryan

Members: Mr. T. O'Sullivan  
Mr J. Maher

heard this claim at Trim on 28th February 2012

#### **Representation:**

Claimant: Myles Staunton & Co, Solicitors, Castlebar Street, Westport, Co Mayo

Respondent: REP.

#### **Respondent's Case**

The respondent is a small convenience store. As a result of a serious business review carried out by the respondent's, in conjunction with their accountant, it was decided that a redundancy needed to take place. It was decided to make the position of deli supervisor redundant as the store manager (GC) could take a much more active role in the management of the deli and the respondent owners could take over a lot of his duties in this store and the other 3 stores the respondent also operated.

The decision was made and a letter issued to the claimant dated the 8<sup>th</sup> of March 2010 stating that, *'the company regrets to inform you that your employment will terminate on the 29<sup>th</sup> of March 2010 by reason of redundancy...unfortunately we have not been able to find a suitable alternative role for you.'* This witness, one of the respondent owners (EF) did not speak to the claimant directly regarding her redundancy. The claimant never contacted the respondent regarding her redundancy directly, but the respondent received correspondence from the claimant's representative outlining her issues on the 12<sup>th</sup> of April.

The claimant's position was chosen for redundancy as she was the only person in that role and her duties could be carried out by GC. The other staff were deli/shop assistants and the claimant's role was as supervisor and could be replaced by GC. There was no consultation with the claimant and there was no alternative position available for her. The claimant was paid her bank holiday entitlements.

### **Claimant's Case**

The claimant was employed as a deli assistant and then promoted to deli supervisor, then the title changed to site charge hand. Her duties included managing the deli and shop including the administrative work. The claimant shared this role with another staff member; they were on the same wages. GC was overall shop manager of the four stores and only came in to the claimant's store for a few hours a week. GC called the claimant into the office one day and handed her the letter stating that her position was being made redundant. The claimant asked could she revert to being a deli assistant, to which he said no. This was the first the claimant heard of redundancies or that her job was at risk. The claimant never met with the respondent owners.

### **Determination**

Having carefully considered the evidence adduced the Tribunal find that the procedures used in effecting the claimant's redundancy were seriously flawed. The Tribunal find that the claim under the Unfair Dismissals Acts, 1977 to 2007 succeeds and award the claimant €10,000.00 as compensation.

The claimant did not proffer any evidence under the Organisation of Working Time Act, 1997, it is therefore dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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