

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE - *appellant*

UD384/2011

against the recommendation of the Rights Commissioner in the case of:

EMPLOYER - *respondent*

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.
Members: Mr. L. Tobin
Mr A. Butler

heard this appeal at Dublin on 3rd July 2012

Representation:

Appellant: In Person

Respondent: Trayers & Company, Solicitors, 29/30 Ushers Quay, Dublin 8

This case came before the Tribunal as a result of an appeal by the employer (the appellant) against a decision of the Rights Commissioner under the Unfair Dismissals Acts, 1977 to 2007 ref. R-094726-UD-10/JC.

Determination

GM on behalf of the appellant (employer) told the Tribunal that the respondent (employee) worked in the role of security officer at a site contracted to the company. Following a complaint from the client where the employee was based he had no option but to move the employee from that site. As the employee was trained site specific it created a difficulty placing him at another site.

Around that period the company had also lost security contracts at other locations and business had reduced significantly. A number of employees were let go from the company. GM accepted that the complaint against the employee was never investigated or never disciplined. He also agreed the matter was not referred to at the Rights Commissioners hearing. He told how rostering the employee was difficult when he was transferred from the site and he had no option but make him redundant. He also accepted that the other employees were not considered for

redundancy and this was due to the fact that the other employees could work as floaters between sites.

The respondent (employee) commenced employment as a security officer in December 2008. Without any meeting or discussion on the 30 March 2010 he was informed that he was being made redundant. He contacted the control room on that date seeking his roster for the following week and spoke with GM the managing director who informed him of his decision.

The Tribunal having considered the evidence from both parties uphold the decision of the Rights Commissioner. The employer failed to follow fair procedures and adequately communicate to the employee the financial difficulties of the company. The Tribunal were told how the employee only became aware of his dismissal following a telephone call to the employer's control centre for his work roster. The Tribunal find that the employee was unfairly dismissed under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)