

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:
EMPLOYEE

CASE NO.
-claimant UD577/2011
RP798/2011
MN615/2011
WT227/2011

Against

EMPLOYER

-respondent

Under

UNFAIR DISMISSALS ACTS, 1977 TO 2007
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005
ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S. C.

Members: Mr E. Handley
Mr. J. Dorney

heard this claim at Dublin on 26th July 2012

Representation:

Claimant:

Respondent:

The claim under the Redundancy Payments Acts, 1967 to 2007 and the Organisation Of Working Time Act, 1997 were withdrawn at the outset.

Preliminary Issue

The claimant signed and accepted the RP50 and the redundancy payment. Consequently she cannot say that redundancy does not arise therefore an estoppel must be proven not to have happened.

The claimant accepted a redundancy payment and an ex-gratia payment of €7,000.00; she refused to sign the 'full and final' settlement agreement. The claimant was only aware of the total figure of €18,436.00 and did not notice that it was made up of a redundancy payment and an ex-gratia payment.

On the 25th of August she had been given notice that her position was being made redundant,

there were no alternatives offered. The respondent was hiring an area manager; the claimant's position was that of area supervisor so she does not believe that a genuine redundancy situation existed. When the claimant enquired about the area manager's job she was informed that she could apply for it but she decided not to as 'she knew she wouldn't get it.' The claimant was competent with paperwork and some of the other skills that the area manager's role required.

The claimant was represented by her Union up to December 2010 and engaged a solicitor in January 2011. A number of meetings took place between the respondent and the claimant's representative up to December 2010. The claimant was paid up until the 8th of October 2010.

Determination

The Tribunal were not happy with the evidence or accept the evidence of the claimant. She said she did not understand the breakdown of the sum of money she received. The claimant said she was capable of doing the area managers role but she can't see the difference between €11,436.00 on the RP50 form and the sum of €18,436.00 she received. The claimant said she did not have a problem with paperwork so the evidence does not satisfy the Tribunal. There was a longredundancy consultation process from August to December. The claimant had her UnionRepresentative advising her at all times during the process. The claimant cannot say she was notgenuinely made redundant. The claimant cannot say she was unfairly selected as there is nocustom and practice established in the respondent. The claimant did not apply for thealternative position even though in evidence she said she was capable of doing the job.

The Tribunal find that the claims under the Unfair Dismissals Acts, 1977 to 2007 and the Minimum Notice and Terms of Employment Acts, 1973 to 2005 are dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)