

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE
-first named appellant

CASE NO.
RP1985/2011

EMPLOYEE

RP1986/2011
-second named appellant

EMPLOYEE
-third named appellant

RP1987/2011

against

EMPLOYER *-respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C
Members: Mr. J. Horan
Mr. M. O'Reilly

heard this appeal at Dublin on 15th August 2012

Representation:

Appellant: Ms Deirdre Canty, SIPTU, Liberty Hall,
Eden Quay, Dublin 1

Respondent: Ms Claire Hellen, IBEC, Confederation House,
84/86 Lower Baggot Street, Dublin 2

Determination:

The Tribunal heard evidence in three distinct cases against the above named respondent.

First named appellant case:

The first named appellant was employed under a "Specific Purpose contract as a Donor Attendant to carry out duties normally performed for the duration of FETAC. This contract will cease on the Expiration of this specified purpose".

What this meant was that different Donor Attendants, were receiving FETAC training on rotation and she was employed to cover their rolling absences. At one stage she was sent on FETAC training herself.

Due to budgetary constraints, the respondent was unable to continue funding the training in September 2012. Thus the requirement to employ staff to cover the absence of Donor Attendants who were undertaking the FETAC training ceased.

The Tribunal finds definition b in Section 7. 2 of the 1967 Act applies:

“(b) the fact that the requirements of that business for employees to carry out work of a particular kind in the place where he was so employed have ceased or diminished or are expected to cease or diminish,”

The Tribunal therefore finds that the appellant was dismissed based on redundancy. The claim, ref: RP1985/2011, under the Redundancy Payments Acts 1967 to 2007, succeeds and the Tribunal awards the claimant a Redundancy lump sum payment based on the following:

Date of Birth:	09 May 1960
Service from:	08 September 2008 to 8 October 2010
Normal weekly remuneration:	€575.51
Non-reckonable service:	None
Amount of redundancy payment:	€2,969.63

Third named appellant case:

This claim succeeds because the appellant was covering a career break for Ms X. Ms X decided not to return and resigned. The post was suppressed because of a moratorium on public recruitment and therefore she could not be replaced. In other words the post which the appellant was covering during Ms X's absence was redundant, because there was a fall in the numbers employed.

Section 7 (3) of the Act as amended:

“(c) the fact that his employer has decided to carry on the business with fewer or no employees, whether by requiring the work for which the employee had been employed (or had been doing before his dismissal) to be done by other employees or otherwise,

The Tribunal therefore finds that the appellant was dismissed based on redundancy. The claim under the Redundancy Payments Acts 1967 to 2007, ref: RP1987/2011 succeeds and the Tribunal awards the claimant a Redundancy lump sum payment based on the following:

Date of Birth:	28 August 1970
Service from:	28 August 2006 to 30 August 2010
Normal weekly remuneration:	€546.93
Non-reckonable service:	None

Amount of redundancy payment: €5,064.57

Second named appellant case:

This case is different from the other two cases as the Tribunal do not see that either definitions (b) or (c) quoted above apply. For the appellant in this case her specific purpose contract was to cover maternity leave for other donor attendant on a rolling basis, and her employment ended when the last donor attendants returned to work. There was in her case no reduction in numbers, nor could it be said that the requirements had diminished.

This claim, ref: RP1986/201, under the Redundancy Payments Acts 1967 to 2007, fails.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)