

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

EMPLOYEE - **Claimant**

against

EMPLOYER - **First Named Respondent**

EMPLOYER - **Second Named Respondent**

under

CASE NO.

UD296/2011

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal).

Chairman: Ms. M. Levey BL

Members: Mr. R. Prole
Mr J. Maher

heard this claim at Dublin on 30 January 2012
and 26 March 2012

Representation:

Claimant:

Respondents:

The determination of the Tribunal was as follows:

Background:

The respondent companies were involved in the gathering of market research and were international research companies. The claimant was employed as a data entry clerk.

On October 31st 2008 the Managing Director (MD) emailed staff concerning the impending takeover of the company. Staff were kept up to date at all times of the possibility of impending changes. A Change Committee was set up to handle all elements of change between then and when the company was ultimately acquired. Any concerns were to be raised with the Committee. Redundancies were discussed but not decided.

On June 4th 2009 MD wrote to the claimant, he also wrote to all employees. The contents of the letter explained the impending takeover and change of name of the company. He was informed that it would not have any practical implications on his benefits and entitlements, including length of service. If the claimant had any questions he could contact MD.

The second named respondent was taken over by the first named respondent in 2009. In October 2009 it became apparent that redundancies would be necessary for the company to move forward. On November 3rd 2009 a staff meeting was held, the claimant was in attendance. On January 8th 2010 an email on behalf of

MD was circulated to staff. It stated:

“I expect to be able to inform everyone about the business structure and consequent changes on the 21st January. Please can you indicate to Marie your availability on this day. I hope to be able to get some time with everyone to explain the new structure, so if you are not in the office that day, please let Marie know if you would still be available to meet. It is likely that I will be meeting people off-site, in a venue nearby.”

Management looked into restructuring the company. A pay freeze had already been put in place and staff that had left were not being replaced. Non-executive directors pay was removed. The company also removed bonus payments and reduced mobile phone allowances and reduced mileage in order to avoid redundancies. A matrix system was used to decide who would be made redundant.

On January 21st 2010 the claimant was written to and informed he was to be made redundant and what his payment would be. It was proposed to meet up on January 29th 2010. The reason for his redundancy was due a change in how research and data was compiled for surveys; mostly it was done by computer rather than paper format.

At the meeting of January 29th 2010 the claimant was asked did he have any suggestions or ideas. On February 10th 2010 his redundancy was confirmed in writing. He was told that the option of the possibility of him being re-deployed but only would time would tell as the business situation would have to be reassessed. He was also informed that as the business was moving to be fully automated, the likelihood of there being a significant data entry needed later in the year was small and any amount of work could not be committed.

The claimant, who attended with his brother, met the Managing Director 3 days later. He was handed a breakdown of his redundancy and ex-gratia payments which amounted to € 27,681.68. A letter of reference was sent to the claimant dated March 2nd 2010.

Respondent’s Position:

The respondent’s witness explained that there had been no alternative but to make the claimant redundant. He felt the company had kept all staff well informed of what was going on and a proper matrix had been used to decide what staff would be made redundant. It was obvious that the workload in the data entry department was to decrease. To his knowledge the claimant did not request any further training.

Claimant’s Position:

The claimant gave evidence. He stated that he had been with the company for 11 years and had been very happy working there. However he felt he had been bullied and harassed by his line Manager for a period of 3 years. He complained to other Management and was told it was a very serious matter but nothing became of his complaint. He again returned to complain to management but was informed that if he came again there could be “serious repercussions”.

He told the Tribunal that he had been given any ultimatum: to resign, accept his line Manager was doing a good job or if he accepted the situation and if it “got out of hand” he could take redundancy. He felt the location of a meeting he had with management was inappropriate as it was in a coffee shop. At the second meeting he asked was there a different location in the company he could move to but was told no. He asked for the criteria used for the matrix but was informed that it was not available at that time. He requested training and was informed by HR that they would get back to him.

The claimant gave evidence of loss.

Determination:

The Tribunal have carefully considered the sworn evidence adduced in this case. The Tribunal find that the

claimant's department was reducing in workload due to the change over from the use of data entry paperwork to the use of telephone and computer based surveys carried out. A complex matrix had been carried out and the claimant's position was identified for redundancy.

Accordingly, the Tribunal find that the claimant was not unfairly dismissed. The claim under the Unfair Dismissals Acts, 1977 to 2077 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)