

## EMPLOYMENT APPEALS TRIBUNAL

**APPEAL(S) OF:**  
EMPLOYEE

**CASE NO.**  
RP651/2011

against  
EMPLOYER

- *appellant*

- *respondent*

under

### REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. M. Levey B.L.

Members: Mr. R. Prole  
Mr J. Moore

heard this appeal at Drogheda on 26th October 2012

#### **Representation:**

Appellant(s) : In Person

Respondent(s) : Mr. Alastair Purdy, Purdy Fitzgerald, Solicitors, Kiltartan House, Forster Street, Galway

The decision of the Tribunal was as follows:-

#### **Background:**

The appellant was originally employed as a sales assistant in the electrical department of the respondent's retail store from July 2003. During her time the position changed to Personal Assistant to the Manager in the electrical department. In 2006 she went on maternity leave but tragically miscarried the child. She suffered terrible post natal depression. Other factors contributed to her depression.

In December 2009 the Human Resources Manager (HR) wrote to the appellant requesting the appellant to attend a company doctor to ascertain if she was fit to return to work. This was the first contact from the respondent since 2006. The appointment was for Tuesday December 15<sup>th</sup> 2009. She did not attend.

On February 5<sup>th</sup> 2010 HR wrote to her again to discuss the possibility of attending a company nominated doctor. Another letter was sent on March 5<sup>th</sup> 2010. The appellant's husband rang the office. He was informed his wife had to attend a company doctor as she had been absent for so long and the company could not guarantee her position.

A second doctors appointment was made for March 23<sup>rd</sup> 2010. She did not receive the doctors report. A third doctors appointment was scheduled for October 7<sup>th</sup> 2010 as the appellant was still absent on sick leave. The appellant's employment was terminated on October 30<sup>th</sup> 2010.

**Appellant's Position:**

The appellant stated that she felt had been bullied and harassed by the respondent company with the letters sent and doctors appointments set up. She felt that the company could have given her more time considering her depression. She refuted she had terminated her employment by mutual consent.

**Respondent's Position:**

The respondents witness (not the HJR Manager) stated that with the appellant on long term sick leave they had to ascertain if she was returning to work at some point. They did not feel they had been bullied the appellant and she had left her employment by mutual consent. Since then staff numbers had increased in the revamped outlet staff.

**Determination:**

The Tribunal have carefully considered the sworn evidence and submission adduced in this case. The Tribunal finds a redundancy situation did not occur. Accordingly the appeal under the Redundancy Payments Acts, 1967 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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