

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

UD1848/2010
RP2485/2010

against
EMPLOYER

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. L. Ó Catháin
Members: Mr. J. Hennessy
Ms. S. Kelly

heard this claim at Waterford on 23rd May 2012 and 10th July 2012

Representation:

Claimant:

Hamilton Turner, Solicitors, 66 Dame Street, Dublin 2

Respondent:

Mr John Farrell, IBEC, South East Regional Director,
Confederation House, Waterford Business Park, Cork Road, Waterford

The claimant withdrew his appeal under the Redundancy Payments Acts, 1967 to 2007.

Respondent's case:

The respondent is a printing company and the claimant was employed there from 21st March 1983 until he was made redundant on 11th June 2010.

There were two distinct functions within the company. One was "pre-press" and the other was "art work". The claimant was engaged in art work and this side of the business was no longer profitable. Therefore the respondent ceased carrying out this function and the claimant's job became redundant. The respondent did not consider that the claimant had the necessary skills to perform the tasks required for pre-press and therefore did not offer him the opportunity to stay with the company carrying out that job. There were some discussions with the claimant's union representative but as far as the witness for the respondent was concerned these were solely about

how much of a redundancy payment the claimant would receive. At no time did the claimant or his union representative object to the claimant being made redundant.

Claimant's case

The claimant commenced employment with the respondent On 8th April 1999 and was dismissed on the grounds of redundancy on 11th June 2010. However the claimant believed that he was unfairly selected for redundancy as there were others who had less service than he had. The claimant worked mostly on art-work but this was on-a-par with pre-press and both overlapped. He worked with many different types of software and was up-to-speed on these. The claimant was also a General Operative.

Prior to the claimant being made redundant he was never offered any alternative to redundancy. The claimant's union representative told the Tribunal that the respondent was not willing to enter into meaningful discussions in relation to the redundancy and simply presented it as a *fait accompli*.

Determination

On the basis of the evidence adduced at the hearing the Tribunal could not be satisfied that there was no commonality between the functions of pre-press and those of art-work. Neither is the Tribunal satisfied that there was sufficient interaction between the parties prior to the claimant being made redundant.

Accordingly the Tribunal finds that the claimant was unfairly dismissed and awards him €7,500.00 under the Unfair Dismissals Acts, 1977 to 2007. This award is in addition to any amount already paid to the claimant in respect of a redundancy lump sum.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)