

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
(*claimant*)

CASE NO.
UD1376/2011
RP1834/2011

Against

(*respondent*)

Under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms P. McGrath B.L.

Members: Mr D. Peakin
Ms M. Maher

heard this claim at Dublin on 7th December 2012

Representation:

Claimant(s) :

Respondent(s) :

The determination of the Tribunal was as follows:

The Tribunal has carefully considered the evidence adduced by the claimant and his employer (Mr. R). This matter comes before the Tribunal by way of a preliminary issue to be decided under Section 7 of the 1993 Act.

The claimant has asked the Tribunal to find that exceptional circumstances prevented him from lodging his notice in writing with the Tribunal within the six month period allowed by statute. The claimant's T1A arrived on 27th June 2011 some two months after the 6 month period expired but well within the twelve months wherein the time can potentially be extended to.

The claimant is profoundly deaf and makes the case that he has very low literacy levels, which, when coupled with his need to have everything explained and/or interpreted to him, contribute to the exceptional circumstances which prevented him from lodging his claim in a timely manner. In particular, the claimant gave evidence that topics such as the law and politics would not be in his daily discourse.

In his evidence, the claimant explained that in the aftermath of the termination of his employment, the claimant was directed by his friends in the deaf community to contact the Free Legal Aid Centre (FLAC). This he immediately did. There then followed a long period of delay, during which time, persons in the FLAC advised him (by way of email) that there were inordinate delays in the system and that his case would be reached if he had “patience”.

The claimant did not know and had no way of knowing that he was against the clock for the purpose of initiating a claim in the Employment Appeals Tribunal.

It was only when the claimant actually went for legal advice at a face to face meeting with an interpreter present, that the fact that the 6 months period had already expired was highlighted. Thereafter, the claimant actively got his T1A prepared and lodged with the Tribunal.

The Tribunal is satisfied that there exists, in the evidence outlined, that there were exceptional circumstances such that he was prevented to lodge his T1A in the time allowed under the Act.

Sealed with the Seal of the
Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)