

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:
EMPLOYEE *-appellant*

CASE NO.

RP1179/2011

against
EMPLOYER *-respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly B.L.

Members: Mr D. Moore
Mr G. Whyte

heard this appeal at Dublin on 21st November 2012

Representation:

Appellant: In Person

Respondent: Mr Gerard Martin, Martin & Company, Accountants,
62 Emerson Court, Prosperous, Naas, Co.Kildare

Background:

It was disputed by the respondent's representative that the appellant's employment had terminated by reason of redundancy.

The appellant was pregnant with a due date in December 2009. However, due to illness the appellant was absent with a pregnancy-related problem from the 28th August 2009. The appellant confirmed that she did not submit medical certificates to the employer but she agreed with him that she would return to work following maternity leave.

The appellant was due to return from maternity leave in June 2010 but was unable to do so at that time due to a personal situation. The appellant stated that during June 2010 she had contacted the supervisor and informed her that she was not yet in a position to return to work and this was met with agreement.

In early November 2010 the appellant telephoned to inform the employer that she was now in a position to resume working. The appellant was informed that there was no work at that time but that there would be work the following month. However, the appellant had no further contact from the respondent.

The representative for the respondent agreed with the appellant to a large extent but refuted that the appellant contacted the company prior to November 2010. By then, the respondent understood the appellant to have left the employment.

Determination:

There was an onus on the appellant to communicate to her employer an expected return to work date following a period of maternity leave. There was a dispute between the parties regarding whether or not the appellant had contacted the employer in June 2010. In any event the next agreed contact was in November 2010. Regardless of whether or not the appellant did contact the employer in June 2010, by November 2010 the respondent was entitled to consider that the appellant had left the employment. In such circumstances, a redundancy situation does not arise and the appeal under the Redundancy Payments Acts, 1967 to 2007, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)