

## EMPLOYMENT APPEALS TRIBUNAL

**CLAIM(S) OF:**

**CASE NO.**  
UD320/2011

EMPLOYEE - *claimant*  
against  
EMPLOYER 1 - *respondent*  
EMPLOYER 2 - *respondent*  
under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Dr. A. Courell B.L.

Members: Mr. D. Morrison  
Ms. R. Kerrigan

heard this claim at Letterkenny on 9th July 2012  
and 27th September 2012

#### **Representation:**

Claimant(s) :Garry Clarke, Solicitors, Pearse Road, Letterkenny, Co Donegal

Respondent(s) : In Person

The determination of the Tribunal was as follows:-

**This case was heard in conjunction with K46187 – UD320/2011**

#### **Respondent's Case:**

The witness on behalf of the respondent gave evidence. He explained that there had been financial problems with the company and senior management had been replaced. Contracts had been lost to other companies. It was decided the company had to be restructured. All departments were reviewed and all staff were informed of the process being reviewed. The witness told the Tribunal that a full consultation took place with staff.

The Finance Department where the claimant (and her counterpart (CMcD)– ref.: K46710 – UD509/2011) had a skills set review which was set up a former colleague (the Finance Controller) . (This gentlemen is no longer working for the respondent and therefore unavailable to get sworn evidence to the Tribunal.)

This person scored the claimant and KK and decided that they had the lowest score and should be made redundant.

#### **Claimant's Case:**

The claimant gave evidence. She informed the Tribunal of her qualifications and degree in I.T. She was employed in the accounts receivable department with 3 other staff including her colleague who also had a claim under the Unfair Dismissals Acts, 1977 to 2007 (ref: K46710 – UD509/2011).

In 2008 she had a performance review and the company seemed very happy with her. In 2010 she was made aware something was happening. There could be redundancies and two of her colleagues were offered positions in one of their U.K. premises. These employees had less service than her. She and KK felt there was a lot of favouritism going on with certain employees and the Finance Controller.

A meeting was held in July 2010 and the staff voiced their concerns. They request two Managers should score the review however it was decided, by staff vote, that the Finance Controller would score them. A second meeting was held on July 14<sup>th</sup> 2010. The skills review was carried out and she had a meeting with management on July 27<sup>th</sup> 2010 to discuss her dissatisfaction of her low scores. They went through the scoring and the Finance Controller told her they were not low scores. She could not understand the scoring as she was a very conscientious worker, was flexible and had turned around some accounts in the past to bring in funds for the company.

The claimant gave evidence of loss.

On cross-examination she stated that another colleague who had less experience had scored higher than she had and was kept on. There was no mention of using the Last In First Out (L.I.F.O.) process. When asked had she appealed the decision to make her redundant she replied that she had contacted her solicitor. When asked why she left straight away she replied that there had been no reason to stay.

**Determination:**

The Tribunal have carefully considered the evidence adduced by both parties in this case. The Tribunal finds that the claimant was unfairly selected for redundancy and awards her the sum of € 20,250.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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