

EMPLOYMENT APPEALS TRIBUNAL

APPEAL(S) OF:

CASE NO.

EMPLOYEE – *appellant*

RP1081/2011

Against

EMPLOYEE - *respondent*

under

REDUNDANCY PAYMENTS ACTS, 1967 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms J. McGovern B.L.

Members: Mr J. Horan
Mr. J. Dorney

heard this appeal at Dublin on 18th January 2013

Representation:

Appellant(s) : Ms B. Tanzler Solicitor, Denis McSweeney, Solicitors, Grand Canal House,
1 Upper Grand Canal Street, Dublin 4

Respondent(s) : in person

Determination

The appellant (HP) commenced employment in June 2002 in the role of office manager which included an administration role. She became a director of the company for a period. The end of 2008 saw the start of a difficult trading period for the company and there were redundancies in 2009 and 2010. HP was involved in the decision making process to make some employees redundant. The appellant met regularly with the owner/director (PC) and was fully aware of the financial situation of the company. On the 25 February 2010 she resigned as a director of the company which is confirmed in a letter of that date. Her work had decreased greatly and she believed her position was no longer required. At a meeting with PC on the 25 February 2010 she referred to her own redundancy. She accepted that the respondent never told her that she would be made redundant. HP agreed that the letter dated the 25 February 2010 stated she was resigning as director and resigning as an employee. She now believed she had worded the letter badly and she did not resign from her employment.

At the meeting of the 25 February 2010 the respondent only discussed options with the appellant and never wished to make her redundant. At that time he was actively seeking contracts. It was a difficult period financially for the company and the appellant's work load

had decreased significantly. He needed to make further savings and could not afford to pay a redundancy lump sum to the appellant. He had signed an RP50 form for the appellant around that time however, following advice from his accountant he could not commit the company to any further dept. He received the letter of resignation from HP dated the 25 February 2010. Following HP leaving he took on the role which still exists within the company on a part time basis.

The Tribunal considered the evidence adduced at the hearing and in particular the letter dated the 25 February 2010 addressed to the respondent and signed by the appellant. The letter which refers to the appellant resigning her position as a director and employee of the company is considered by the Tribunal as very important. The Tribunal also note that the respondent did not inform the appellant that she would be made redundant and that the role continues to exist although at a reduced level.

The Tribunal find that a genuine redundancy situation did not exist and therefore dismiss the claim under the Redundancy Payments Acts, 1967 to 2007.

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)