

**EMPLOYMENT APPEALS TRIBUNAL**

**CLAIM OF:**

EMPLOYEE - claimant

**CASE NO.**

UD2016/11  
RP2597/11  
MN2044/11  
WT797/11

**Against**

EMPLOYER - respondent

**under**

**UNFAIR DISMISSALS ACTS, 1977 TO 2007  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007  
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005  
ORGANISATION OF WORKING TIME ACT 1997**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms J. McGovern BL

Members: Mr F Cunneen  
Mr M. O'Reilly

heard this claim at Dublin on 12th February 2013.

**Representation:**

Claimant: In person

Respondent: Mr Richard Grogan, Richard Grogan & Associates, 16-17 College Green  
Dublin 2

At the outset of the hearing the claims under the Redundancy Payments Acts 1967 to 2007, the Minimum Notice and Terms of Employment Acts, 1973 to 2005 and the Organisation of Working Time Act, 1997 were withdrawn.

The determination of the Tribunal was as follows:-

**Respondent's Case:**

The respondent is engaged in file storage, home and business removals and shredding of documents and is a family run business.

In 2011 due to the economic climate the company undertook a restructuring programme to streamline the business. The respondent moved to a centralised Group Structure.

The claimant was employed as a Customer Service Operative Helper and worked in the Shred It section of the business. Two other employees also held these positions. The claimant assisted a driver. The driver held a C licence. Together they travelled to businesses and shredded documents on site.

PM is the strategic change leadership manager. Savings were identified in manpower numbers and a decision was taken to invite applications for voluntary redundancy. The closing date was 24<sup>th</sup> May 2011. About 10% of staff availed of the package.

In the Shred It area of the business a decision was taken to eliminate the existing customer service operative helper roles. Two new logistic assistant posts were established. Applications were invited from the three existing helpers to apply for these new positions. The claimant did not apply for the new position.

PM met with the claimant and they discussed the voluntary redundancy package. The claimant had other concerns. PM advised the claimant to seek advice. He sought part time work in the company. None was available. As the claimant's role no longer existed he was given an enhanced redundancy package and his employment ceased on 29<sup>th</sup> July 2011.

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

The claimant commenced employment as a customer service operative helper. He travelled with a driver to companies. They collected bags of documents to be shredded and he shredded the documents in the truck. It was a very busy job.

In April 2011 as the company was restructuring two new logistic assistant roles were advertised. He was not interested in applying for these positions.

In mid May 2011 he spoke to PM and informed him that he was not interested in the newly advertised positions. He enquired if any other work was available in the business. He wanted to remain working in the business. He was told no other positions were available. He felt the company wanted him out and to replace him with a younger person.

Following advice from his union representative he accepted the enhanced redundancy package.

Following the termination of the claimant's employment he registered with employment agencies and completed some courses. He applied for alternative work but has not secured work since his employment ceased.

**Determination:**

The Tribunal carefully considered all of the evidence given at the hearing and believed the witnesses to be truthful and honest. In all of the circumstances the Tribunal is satisfied that a genuine redundancy situation existed in the respondent company. The Tribunal is also satisfied that the claimant accepted the redundancy package.

The claim under the Unfair Dismissals Acts, 1977 to 2007 is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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