

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

EMPLOYEE

- claimant

UD895/11

WT376/11

EMPLOYER - respondent

EMPLOYER - respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007 ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. P. Hurley

Members: Mr. G. Andrews
Mr. F. Dorgan

heard this claim at Limerick on 18th April 2013.

Representation:

Claimant:

Respondent:

Dismissal was not in dispute.

Respondent's Case:

The respondent is a leading manufacturer of pipe tools. Its Group headquarters are located in Germany. RW is CEO since 2004. There are plants in Spain, Germany, America and China. The respondent set up a manufacturing plant in Co. Clare in 1979 and ceased manufacturing in 2007. At that time thirteen to fourteen employees were made redundant. Three employees were retained in the business, namely, the Managing Director CC, the claimant who was Head of Finance and FH who worked in administration. There was on-going work for these employees.

The Irish operation was responsible for procurement.

The respondent lost 20% of sales in 2009. An independent consultancy firm was engaged and prepared a report. A decision was taken to centralise administrative services and to streamline the organisation. The Irish operation was the only offshore procurement centre.

In late 2009 general discussions took place in relation to centralising services. The focus was on procurement being done elsewhere. CC attended a meeting in headquarters where the Irish operations were being reviewed. At that meeting CC informed the respondent that he had taken a loan from the company without permission. CC was immediately suspended from the company. The company did not pursue this further.

Subsequently, RW had a meeting with the two remaining employees, the claimant and FH. The company had taken a decision to retain the company and its presence in Ireland, albeit in a dormant and shell state. At that time CC left the Irish operation.

The respondent offered both employees a statutory redundancy payment together with an enhanced ex gratia payment. The time line for acceptance was extended to 8th November 2010. The claimant accepted the statutory redundancy payment but declined the ex gratia payment. RW was surprised the claimant did not accept the ex gratia payment. RW deemed it to be an attractive package. The claimant was a trusted and valued employee. He was not offered redeployment nor did the claimant enquire about redeploying elsewhere. He was offered a consultancy contract of one day a month. The claimant accepted this offer.

Since 30th November 2010 no employees are employed in Ireland. The company no longer trades in Ireland.

Claimant's Case:

The claimant commenced employment on 27th November 2000. He was Head of Finance and reported to the Managing Director CC. He prepared audits and accounts for the company. He had concerns about the financial aspects of the company and spoke to CC about his concerns. CC said if he put these in writing he would lose his job. It was on this basis that the claimant contended that he was unfairly dismissed. The company did not enter into negotiations with him when he was made redundant.

The claimant contended that the company was very profitable as it had offshore trading.

There was no discussion about his redundancy. He worked extremely hard and was an exemplary employee. The claimant accepted his statutory redundancy payment but he did not accept an enhanced redundancy package from the respondent as he felt it was an insult to him.

Since the termination of the claimant's employment he does consultancy work for the respondent one day a month.

The claimant applied for numerous positions since the termination of his employment but has not secured alternative employment.

Determination:

On the basis of the evidence adduced during the course of the hearing the claimant failed to make any case or any elements thereof that would support his case that he was unfairly selected for redundancy. The Tribunal is satisfied that a genuine redundancy situation existed in the company and the claimant acknowledged that he received his statutory redundancy payment.

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

As no evidence was adduced under the Organisation of Working Act 1977 that claim also fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)