

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

Dominic Burke, 1 Glenealy Road, Crumlin, Dublin 12     *-appellant*

CASE NO.

UD1945/2011

against the recommendation of the Rights Commissioner in the case of:

P.C.O. Manufacturing Limited, Ashbourne Business Park, Ashbourne, Co Meath     *-respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal

(Division of Tribunal)

Chairman:     Mr G. Hanlon

Members:     Mr. A. O'Mara  
                  Mr P. Trehy

heard this appeal at Trim on 7th March 2013

#### **Representation:**

Appellant:     In Person

Respondent:    Dundon Callanan, Solicitors, 17 The Crescent, Limerick

This case came before the Tribunal by way of an employee appeal of the Rights Commissioner Recommendation ref: **r-106924-ud-11/JT** under the Unfair Dismissals Acts, 1977 to 2007.

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

The Financial Controller of the respondent gave evidence. The respondent is involved in the importation of prescription drugs from Europe for sale in Ireland. The respondent imports the drugs from Europe then re-packages/re-labels as necessary. Due to Government enforced price reductions and the competition with the drug manufactures, business decreased significantly within the respondent. They were informed on 23 December 2010 about the Government enforced price reduction which resulted in a 40% loss in turnover overnight. This directly affected the warehouse staff; both the production and dispatch areas.

Before the decision to make redundancies was made, all other cost cutting measures were looked at, including work-sharing and abolishing overtime payments. These measures did not prove effective enough, resulting in 25 staff members being made redundant.

In early January the Managing Director announced to the whole company that redundancies would be necessary. There are 120 staff in the respondent. A staff committee was set up with volunteers to liaise with the management regarding the redundancy situation. The appellant

was one of the three members on this committee. The selection criteria and 'score card' were compiled and a question and answer service on the redundancy implications for everyone was also established; the appellant was directly involved in this process. The management team decided what selection criteria would be used and issued it to the staff. The appellant, (or the staff committee) at no stage objected to the score card or the selection criteria. The appellant's score card was completed by his supervisor and then checked by the supervisor's manager. The appellant did not query his scores or appeal his scores. The Financial Controller is not aware if the appellant asked for his score card.

The Financial Controller was not aware of any conversations or disagreements between the appellant and his supervisor. If the appellant wanted to appeal his scores he could have gone to a manager or directly to the Managing Director. The completed score card was not given to the staff unless they asked for it, including the staff who were selected for redundancy. The appellant's notice was paid in lieu so he finished working the day he was informed he had been selected for redundancy.

The appellant's supervisor completed the appellant's score card. He then went to his manager and explained his rationale for the scores. He did not discuss the scores with the appellant but did give him the score card on the day he was informed he was being made redundant. The appellant was unhappy with his scores but he was aware (verbally) that he could appeal them. The appellant's supervisor gave detailed evidence of his rationale for the appellant's scores.

The General Manager reviewed the appellant's scores with both the Department Manager and the appellant's supervisor. As a result of this review some of the scores did change. This witness gave evidence of the disciplinary and attendance issues that had affected the appellant's score. On foot of a complaint from the appellant he was asked to outline a formal grievance in writing; the appellant did not pursue the grievance. The witness gave evidence on the subjective versus objective nature of the criteria.

### **Appellant's Case**

The appellant was informed consistently by his supervisor that 'redundancy would be coming up,' but not that he would be made redundant. The appellant volunteered to be on the staff committee with the understanding that he was the employee representative between staff and management. The appellant put a number of questions to management regarding redundancy and received answers. The appellant was aware of the selection criteria.

On the appellant's final day at work he was called to a meeting and handed documents which include his P45, RP50 and a cheque for a redundancy lump sum. The appellant was shocked as he believed that, as he was on the staff committee it would preclude him from being made redundant. The appellant informed the respondent that he would be appealing his redundancy; he did not indicate who he would be appealing the decision to. The appellant does not recall if he received the letter asking him for more details regarding his grievance. He was not aware that there was a grievance procedure in the company handbook. The appellant believes he was selected for redundancy due to the differences he had with his supervisor.

**Determination**

The Tribunal find that the procedures used in effecting the appellant's redundancy were lacking. The Tribunal upsets the Rights Commissioner Recommendation **ref:r-106924-ud-11/JT** under the Unfair Dismissals Acts, 1977 to 2007 and awards the appellant the sum of €2,500.00 in addition to monies already received.

Sealed with the Seal of the  
Employment Appeals Tribunal

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