

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM OF:  
EMPLOYEE

CASE NO.  
UD2369/2011  
RP2933/2011

Against

EMPLOYER  
under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007  
REDUNDANCY PAYMENTS ACTS, 1967 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms F. Crawford B.L.

Members: Mr J. Reid  
Mr S. O'Donnell

heard this claim at Dublin on 17th April 2013

Representation:  
\_\_\_\_\_

Claimant: In person

Respondent:

The determination of the Tribunal was as follows:-

**Background:**

The respondent is a facility management company employing over 3000 people. The claimant worked in an IT support role with the respondent. The IT support was outsourced as a cost cutting measure. Claims were brought under unfair dismissal and redundancy. It was alleged that the claimant, had been unfairly dismissed after being in employment from November 2005 to June 2011.

At the Tribunal hearing, the claim lodged under the Redundancy Payments Acts, 1967 to 2007 was withdrawn.

A preliminary point was raised as to the validity of the claim seeing that the claimant had accepted an ex-gratia payment. He did not sign a waiver form but accepted and cashed the cheque.

**Respondent's case:**

JD HR director told the Tribunal that he met with the claimant on 2<sup>nd</sup> June and advised him that IT had been outsourced. There were two IT personnel and both were made redundant. A letter outlining the payments being made and an RP50 were sent to the claimant on 7<sup>th</sup> June. The claimant was unhappy, he didn't return to the office and asked to be met off site. JD and the claimant met at a coffee shop, the claimant received his redundancy cheque plus an ex gratia payment but refused to sign a waiver form. No alternatives were offered to the claimant and while notice was given it was not worked because of the sensitivity of the position.

ND the finance director gave evidence that the IT personnel reported to him. It consisted of two support engineers and he took a decision to outsource this department. He listed reasons for his decision including costs and enhanced support, including out of hours and said it made financial sense as there was substantial savings. The transfer of undertakings legislation was not considered as an option and no other options were considered as there was no alternative IT work with the respondent.

**Claimant's case:**

The claimant gave a detailed and thorough submission to the Tribunal. The claimant contested the redundancy and the reasons for the redundancy. The claimant told the Tribunal that while he accepted that the respondent had a right to make difficult decisions it should do so with a moral attitude. It was the manner in which it was done was not acceptable. He refused to sign the waiver form as he got no prior notice of it and was given no opportunity to seek legal advice.

There was no consultation and no alternatives given. He initially accepted the situation but later found out that an employee from the new provider was there full time so he considered that the job was still there.

**Determination:**

On the preliminary issue raised the Tribunal is of the opinion that as the claimant did not sign the waiver and had no access legal advice at the time the documents were produced, therefore the acceptance of the ex-gratia cheque is no bar on the Tribunal hearing the case.

Having heard and considered all of the evidence the Tribunal accepts that that a redundancy situation arose in this case. On balance, there was a change in operations of the IT department and a genuine reorganisation in the company. The redundancy of the claimant ensued from the outsourcing of the IT department. Therefore the claim under the Unfair Dismissals Acts 1977 to 2007, must fail.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

