

## EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

EMPLOYEE *-claimant*

CASE NO.

UD2069/2011

MN2097/2011

against

EMPLOYER *-respondent*

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2007  
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2005**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. N. Russell  
Members: Mr. J. Hennessy  
Mr. F. Dorgan

heard this claim at Waterford on 11th July 2013

### Representation:

Claimant: Ms Geraldine Malone, Siptu, Membership  
Information &, Support Centre, Liberty Hall, Dublin 1

Respondent: Mr. Michael McAteer, Grant Thornton,  
Chartered Accountants, 24/26 City Quay, Dublin 2 (no appearance)

### Determination:

The Tribunal heard the uncontested evidence of the Claimant there being no attendance on behalf of the Respondent which is in Liquidation.

The Tribunal was satisfied from the evidence that the Claimant was dismissed thereby placing the onus on the Respondent to establish that the dismissal was not unfair. The dismissal occurred in the context of a purported redundancy.

The Claimant disputed the legitimacy of the redundancy and gave evidence to the Tribunal of the backdrop to the termination of her employment.

The Claimant was not precluded from claiming that she had been unfairly dismissed by virtue of her acceptance of a redundancy payment calculated in accordance with Statute and accepted by her under clear protest.

The Tribunal is satisfied that the Claimant's evidence points towards dismissal in circumstances

where her role was not, in fact, redundant but simply “repackaged” or, at the very least, in circumstances where no reasonable effort was made to clarify the selection criteria to her, to provide a role for her going forward, to engage with her on a constructive basis or to take onboard her protestations and representations.

The Tribunal heard evidence of a Disciplinary Process against the Claimant. While it was unnecessary to go into detail on the matter of the verbal warning issued to the Claimant, the Tribunal wishes to record that it has serious reservations about the nature and extent of the Disciplinary Procedure taken against the Claimant for a minor clerical error which is suggestive of a heavy handed attitude towards her that may well have distorted the Company’s attitude in its approach to the termination of her employment. It was clear to the Tribunal that the Claimant felt very aggrieved about this procedure and, indeed, her treatment by the Company in the lead up to her dismissal which saw her position within the Company eroded.

On the issue of Notice of Termination, the Tribunal heard evidence that the Claimant had not received her Statutory Notice Entitlement. An award of €581.70 is hereby made by the Tribunal pursuant to the provisions of the Minimum Notice and Terms of Employment Acts 1977 -2007.

The Claimant was unfairly dismissed. Having considered all relevant factors, the Tribunal awards the Claimant the sum of €20,000, under the terms of the Unfair Dismissals Acts, 1977 To 2007. For the avoidance of confusion the Tribunal wishes to clarify that this sum is in addition to the payment of €2,816.19 already received by her from the Company.

Sealed with the Seal of the  
Employment Appeals Tribunal

This \_\_\_\_\_

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