

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
EMPLOYEE

CASE NO.
UD1620/2011

against

EMPLOYER

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms F. Crawford B.L.

Members: Mr J. Goulding
Mr J. Flannery

heard this claim at Dublin on 9th January and 31st May 2013

Representation:

Claimant : In person

Respondent: Ms Catherine Day, Peninsula Business Services (Ireland) Limited,
Unit 3, Ground Floor, Block S, East Point Business Park, Dublin 3

The determination of the Tribunal was as follows:

Respondent's Case

The respondent is a limited company without a share capital and provides a wide range of social services to its customers. It receives funding from a government department and from another public oriented information board. The respondent's first two witnesses gave detailed and background information on the structure, functions and general activities of the respondent. The first witness told the Tribunal that the purpose of her evidence was to give a national picture of events relating to this case. The second witness who was a development officer from the respondent and another similar entity had some input into an emerging situation between the claimant and the respondent. While he initiated a certain process this witness however did not conclude it and had no more involvement in this case from 1 February 2011.

The third witness was the regional manager for national advocacy services in what was called region 1. He took up that position on 1 February 2011 armed with some knowledge of an evolving situation. On 3 February this witness along with two others interviewed eight candidates for six positions as an advocate. As a result of that encounter the claimant scored the least marks compared to the other applications. Since there was now no position for her services the respondent made her role redundant. This witness accepted it was not made explicit to the claimant that the interview was not only for a particular post but was also in effect a redundancy selection exercise.

Claimant's Case

The claimant attained the position of advocacy development worker in February 2006. As part of that role she became heavily involved not only dealing with clients but with other organisations and bodies. By that stage the claimant had gained extensive experience and acquired professional ongoing qualifications in advocacy work. In 2010 the citizens' information board acting as an umbrella body confirmed that a reorganisation and restructuring of citizens' information services would come into effect on 1 January 2011 when a National Advocacy Service was to be established. Those proposed changes included, among other things, a transfer of undertaking which would apply to the claimant.

Posts of regional advocacy managers, senior advocates, and other advocacy staff were to be appointed in five regions. The claimant's application for the position of a regional manager was unsuccessful. By the end of December 2010 the claimant was issued with a new contract of employment with the respondent. When she returned to her office on 26 January 2011 the claimant learned that all applications for the position as an advocate had to be submitted the next day. Despite this tight deadline and other factors the claimant applied in a timely fashion and attended an interview for that position on 3 February. Less than a week later the claimant received a formal written reply which carried the news that not only was she not offered a job of advocate with the respondent but that due to the reduction in the number of required advocates her position would now be made redundant.

At that time the claimant did not question the results and outcome of that interview nor did she raise a grievance over that process. By the end of February the claimant received information and feedback of her interview and was displeased with some of her marks and comments on her answers. The claimant subsequently gave some consideration to apply for a position of advocacy in another region but opted not to submit an application.

Determination

This is a claim for relief under the Unfair Dismissals Act 1977 (as amended). The Respondent had made the Claimant redundant and this process was unfair and she was unfairly selected for redundancy.

The Tribunal acknowledges the commitment, dedication, experience and qualifications of the claimant in undertaking her roles as an advocacy worker. It also recognises that the respondent and other linked bodies acted in a transparent, objective way in dealing with major changes in their organisations. There was no evidence of any bias or prejudice towards the claimant in this case. The Tribunal cannot undermine the processes used by the respondent in dealing with the claimant. The process used was fair and transparent in circumstances wherein the Respondent had to make economic and organisational changes. Unfortunately that process resulted in the loss of the claimant's employment with respondent.

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

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)