

EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF: CASE NO.
Employee - *claimant* UD58/2009
against
Employer – *respondent*
under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. N. O’Carroll - Kelly BL

Members: Ms. A. Gaule
Mr. B. Byrne

heard this appeal at Dublin on 9th June 2009

Representation:

Appellant: Mr. Brendan Byrne of Liam Moran & Co. Solicitors,
11 Malahide Road, Swords, Co. Dublin

Respondent: Mr. Francis McGagh BL instructed by Breffini O’Neill of
Construction Industry Federation, Construction House,
Canal Road, Dublin 6

The decision of the Tribunal was as follows:-

Respondent’s Case

The contracts manager gave evidence. The claimant was employed as an unskilled general operative. He was an excellent worker and a great time-keeper.

The claimant worked on a number of construction sites, while employed by the respondent. When he was made redundant his colleague was retained for several weeks because he had the skills to do

snagging on site. The claimant could not do snagging and had never been employed in that role.

When redundancies were made the criteria used were first the skills of the person and after that last in first out. The claimant's age was not a factor when he was selected for redundancy. If there were work available the claimant would still be employed.

Claimant's Case

The claimant gave evidence. He worked on a number of construction sites. He did a variety of jobs, anything the foreman requested. He carried blocks to bricklayers. He made holes for the plumbers on a renovation project. He took down scaffolding. He felt that he should have been kept on in employment.

Determination

The Tribunal carefully considered the evidence adduced and accepts that a redundancy situation existed. The Tribunal finds that the selection criteria based on the skills of the employees was fair.

Accordingly the claimant was not unfairly selected for redundancy. The claim under the Unfair Dismissals Acts, 1977 to 2007 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)