

EMPLOYMENT APPEALS TRIBUNAL

APPEALS OF:
EMPLOYEE

CASE NO:
UD517/2010

- appellant

against
EMPLOYER

- respondent

under

UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Lucey

Members: Mr. W. O'Carroll
Ms. S. Kelly

heard this appeal in Limerick on 28 July 2011

Representation:

Appellant: Frank McDonnell, The Limerick Resource Centre for the Unemployed,
Unit 6, Hunts Lane, Dominic Street, Limerick
Ger Kennedy, 5, Herbert Road, Castletroy View, Limerick

Respondent: Not Present or Represented

The decision of the Tribunal was as follows:

This hearing comes by way of appeal by the appellant (employee) of a Rights Commissioners recommendation against the respondent (employer) under the Unfair Dismissals Acts, 1977 to 2007 reference number r-078178-ud-09/GC.

Appellant's Case:

The appellant gave evidence. He commenced employment with the respondent as a driver in a garage in 2004. After some time the position of Service Manager arose and he was asked if he would like to do it. He told the Tribunal that he did not want to carry out the duty, no one else did either. He carried out the extra duties but was not paid the extra wages for it.

On March 11th 2009 he was called to the office and informed he was to be made redundant. He had no prior knowledge of the meeting, what it would concern, was not afforded the opportunity to bring a representative to the meeting and was not given the opportunity to appeal the decision. He was informed twenty other

employees were to be made redundant also.

Some months later the positions for Experienced Sales Executives, Trainee Sales Executives and a Senior Technician were advertised. The appellant was not offered the positions, although he had been told if a position arose he would be offered it. He did not apply for them either. He explained, when asked, that he had worked in various departments of the respondent's business.

Determination:

Having heard the uncontested evidence and submissions made by the appellant in this case the Tribunal find that the appellant was unfairly selected for redundancy. Accordingly, the Tribunal upsets the Rights Commissioner recommendation and awards the appellant the sum of € 10,000.00 under the Unfair Dismissals Acts, 1977 to 2007.

Sealed with the seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____

(CHAIRMAN)