



NEWS REPORT

Date: 27 April 2009
Expert: Orlagh O'Farrell
Title: DEC-E2009-011 An Employee –v- A Limited Company
27.4.09
Country: Ireland

Context

Issue at stake: Discrimination in selection for redundancy
Ground of discrimination: Multiple discrimination – race and gender
Source: National equality body
Field: Employment

Legislative provisions: Section 6(2) of the Employment Equality Acts, 1998 – 2008 (Art2 and 3 of Directive 2000/43)

Content

Case/law/political development: The complainant, not an Irish national, a payroll administrator who also carried out human resources and translation functions, complained that she had an argument with her employer during which, she alleged, he spoke to her as he would never have spoken to an Irish national. Following the argument she was absent from work for one week on stress-related sick leave and during this time she was made redundant. When the complainant asked on what basis she had been selected for redundancy, the respondent replied that her role (in spite of the varied nature of her duties) had been outsourced. The complainant contended that in reality she had been dismissed rather than made redundant, and had been discriminated against on grounds of race and gender.

Decision of the Court: The Tribunal was satisfied that the complainant has proved as a matter of probability that she was singled out for special unfavourable treatment by the respondent, that other employees of a different racial origin were not so treated and that her dismissal arose as a direct consequence of the special treatment to which she was subjected. This raised a presumption of discrimination. The respondent's explanation that her role had been outsourced was found unconvincing. Accordingly the respondent had failed to satisfy the Tribunal that its decision to dismiss the complainant was not racially motivated and, therefore, the complainant succeeded. However the gender aspect failed, as the Tribunal found no link between the unfavourable treatment received by the complainant and the gender ground.



It awarded the complainant €20,000 in compensation for the discriminatory dismissal suffered.

Internet link source and additional information:

<http://www.equalitytribunal.ie/index.asp?locID=164&docID=1989>