

Making an Employee Redundant Who Was on the Temporary Wage Subsidy Scheme

When employers went into the Temporary Wage Subsidy Scheme ("TWSS") the employer would have given a statement, as part of the process, that it was not their intention to be making anybody redundant who was put under the Scheme.

In reality a number of employees who were put under that Scheme are going to be made redundant.

Where an employer proposes to do so they need to be extremely careful. The Revenue Commissioners have indicated that where an employee is proposed to be made redundant then in those circumstances the employee must be taken off the TWSS.

Take the situation where an employer is considering redundancies. They have say ten employees all under the TWSS. All ten are notified that they are at risk of redundancy. The employer believes that only four of five will actually be made redundant but, because they all work in a similar unit they are all potentially at risk of redundancy.

In those circumstances the employer must take the full ten employees off the TWSS when the consultation process starts. Once the selection has been made then in those circumstances the employees not being made redundant can be put back on the TWSS. This would equally apply if an employer notified an employee that a single individual was at risk of redundancy in which case they equally, in that situation have to be taken off the Scheme.

A number of employers are going to fall foul on this issue and have a reclaim from the Revenue.

There is certain logic in the approach of the Revenue Commissioners. The employer has said that they had not intended to make any employees redundant. There have been issues coming up as regards calculating redundancy notice and holiday pay in a situation where an employee is made redundant and had been put under the TWSS. As the Revenue rules will require the employee to be taken off the TWSS then the law is very clear and their notice and holiday entitlements would be calculated on their old salary or wage not on the TWSS. Equally their redundancy would be calculated on their normal wage of

salary subject to a maximum of €600 per week and not on the TWSS rate of pay.