

Redundancy – Offer of Alternative Employment

This issue arose in ADJ-00026299. The issue in relation to being offered suitable alternative employment is set out in Section 15 (2) of the Redundancy Payments Acts 1967 -2015.

The issue is whether the offer constitutes an offer of suitable employment in relation to the employee and where it has been refused whether it was unreasonable to refuse the offer.

The Adjudication Officer pointed out that this issue is that firstly the offer made must be looked at objectively and secondly the decision of the employee must then be looked at from a subjective stand point. The Adjudication Officer set out that this position had been clearly set out in Employment Law Second Edition at 19.123 where it states

“The question of suitability may be determined objectively whereas the reasonableness of the employee’s refusal is subjective and must be considered from the employee’s perspective. Thus the employee’s perception of the alternative job must be taken into account”

The Adjudication Officer reviewed the law in relation to this.

In this particular case the Adjudication Officer found that the employee was 65 years of age, was not in good health and had afterschool commitments with her granddaughter. The new job would have been one where she would have had to take two buses to get to the Barrow Street premises leaving her with a substantially longer commute time both to and from the workplace. Even though the employer was willing to amend the working hours that would not have reduced the actual amount of time and effort involved in getting to and from work. The Adjudication Officer found that the employee was entitled to redundancy.

While it is not set out in this particular case the reality of matters is that a short additional commute would be reasonable. A longer commute would not.