

Redundancy Payment Acts 1967 - 2014 – Suitable Alternative Employment

This issue arose in a case of Browne and Di Simo RPD1914. In this case the Labour Court looked at the law on this. The Court stated that in determining the within appeal the Court was required to consider firstly the suitability of the offer of alternative employment and secondly whether or not the complainants decision to refuse that offer was reasonable in all the circumstances. The Labour Court quoted the case of Cambridge & District Co –Operative Society Limited –v- Ruse 1993 IRLR156 where the English EAT, when considering a similarly worded provision of the British Legislation, said that the question of:

“The suitability of the employment is an objective matter, whereas the reasonableness of the employee’s refusal depends on factors personal to him and is a subjective matter to be considered from the employee’s point of view”

In this case the employee had been in one location and was offered a position in Nutgrove Shopping Centre. The Labour Court correctly pointed out, in our view, that while the employee was naturally concerned about the potential loss of clients as her earnings were dependent on the amount of business she conducted. At no point did the employee endeavoured to test out that concern. The Labour Court pointed out that in accordance with Section 15 of the Act there is a facility for her to carry out her work in the new premises on a trial basis while retaining her right of possible redundancy payment. The Court was satisfied that the offer to continue the employment on the same terms and conditions amounted to suitable alternative employment within the meaning of Section 15 of the Act and that the refusal to accept the option of working in Nutgrove Shopping Centre Salon was unreasonable.

It is sometimes forgotten by employees that the Redundancy Payment Legislation specifically provides that an employee is entitled to effectively take an alternate position for a trial period and if that does not work out then to seek redundancy.