

Redundancy Payment Acts

In case ADJ16132 the AO in this case helpfully quoted the Second Edition of Employment Law at 19.123 where it was stated:

“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.”

In *Executors of Everest V. Cox* it was found that,

“The employee’s behaviour must be judged from her point of view on the basis of the facts as they appeared or reasonably have appeared to her, at the time the decision had to be made”.

The English EAT case of *Hudson v. George Harrison Limited* shows that the arbiter of fact, before making a decision on the reasonableness of the employee’s decision to refuse to take up an alternative position can look at the employee’s personal circumstances. Before quoting the above mentioned quotation from the *Executors of Everest*, the EAT stated that,

“The S141(2) question involves taking into account the personal circumstances of the employee. The test is wholly subjective but it includes taking into account those personal circumstances”.

The relevant Irish sections are Section 7(2)(a) and Section 15(2).