

Unfair Selection for redundancy – A Common Mistake – 6

This issue arose in case ADJ00020846. The Adjudication Officer in this case helpfully set out the provisions of Section 6 and 7 of the Unfair Dismissal Legislation finding that the employee had been unfairly dismissed. The Adjudication Officer dealt with the issue of financial loss. The Adjudication Officer pointed out that the salary which the former employer was on was €65,000 per annum and that the employee had commenced employment after being made redundant on a new salary of €50,000 but had no company car. The employee was able to bridge the difference between the two employments by way of overtime but at the date of the hearing a significant difference still existed in the order of 30% including benefits.

The Adjudication Officer held that the financial loss directly attributed to the unfair selection for redundancy would take 7 years to be fully restored. The Adjudication Officer said having regard to the actual financial loss to the date and continuing loss into the future the compensation of €30,000 would be regarded as just and equitable.

This case is a reminder of the importance of fair selection for redundancy where there has been an unfair selection for redundancy an employee may be able to obtain compensation under the Unfair Dismissal Legislation in those circumstances where an employee is being selected for redundancy. There is of course no issue in relation to the employee contributing to the dismissal and therefore provided the employee can show that they have mitigated their loss there is a very strong argument that the employee should receive their full financial loss up to the maximum which would be two years salary.