

## **Redundancy - Change of Location**

This issue arose in a case of L Connaughton & Sons Limited and Yvonne Healy RPD 205.

The facts are relevant.

The employee was employed and an Office Administrator in the employer company in their warehouse at Grand Canal Quay Dublin. She lived in Wicklow and travelled to work by train. The company moved the business to Clonsaugh. The employee could no longer commute to work by train. She requested Redundancy and was refused. The employer contended that the new location was within 10 Kilometres of the previous location and that the employer was willing to collect the employee at the train station at her usual starting time with her return journey each working day to leave her back there at her usual time.

In this case the Labour Court held that while there was a move within Dublin there is a difference in terms of place for an employee who commuted by train but then found that her employer was relocating to a place where there was no train links and which is considerably further from her home. The Court said that in circumstances of the commuting difficulties in Dublin this represented a major change to the terms of her contract which most rational people would regard as a change of such significance would effect the employees ability to continue to work for the employer.

The Labour Court affirmed the decision to provide for Redundancy.

The relevant Legislation is in Section 7(2)(b) which relates to business ceasing or diminishing in the place where the employee works. There is a provision in Section 15 which allows for a brr on Redundancy claims where an appropriate new contract is provided.

Most employment contracts will have a provision in them which provides for an employee agreeing to change location. However, any change must be reasonable. This will depend on the particular facts. It will also to an extent depend on the location of an employee.

While it is not an issue that was raised in this case, the particular issue of change of location is likely once the Pandemic is finished or during it to arise more often. As businesses move to remote working

either full time or part-time for all or some of the staff it is likely that business will seek to move offices. This will then give rise to issues of Redundancy claims.

It must of course be remembered if a business is moving location that is not of itself a ground for an employer to make an employee redundant. It is a matter for an employee in those circumstances to seek Redundancy. Cases involving particularly a change of location is always going to depend upon how much of an additional commute the employee will be subjected to. Limited commute times will not result in Redundancy claims being successful. Longer ones will.

There is no hard and fast rules in these cases. There is no guide that would say that five minutes is ok but twenty minutes is not.

These cases will depend on the particular circumstances of the particular case and often also the particular circumstances of the employee. By this we mean that you could have a situation where one employee travels by bus or train. The other employee travels by car and has car parking place. The location changes. The employee who travels by public transport and does not have access to car parking has an additional twenty-minute walk to get to work. By this we mean that if you have two employees, one who is travelling by public transport and does not have a car and another who has a car and is provided with car parking on site have a change in location that the additional commute time may be exactly the same but the person who is provided with a car and car parking space may not be in a position to claim Redundancy whereas the other individual who is travelling by public transport who has the additional commuting time where they have to walk in foul or fine weather.

Each of these cases will depend on the particular circumstances of the particular case.

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**\*\*In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**

