

## EMPLOYMENT APPEALS TRIBUNAL

**APPEAL(S) OF:**

**CASE NO.**  
UD1201/2012

EMPLOYEE - *appellant*

against the recommendation of the Rights Commissioner in the case of:  
EMPLOYER - *respondent*  
under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms D. Donovan B.L.

Members: Mr J. Browne  
Mr F. Dorgan

heard this appeal at Wexford on 20th November 2012

#### **Representation:**

Appellant(s) : In Person

Respondent(s) : In Person

The determination of the Tribunal was as follows:-

**This hearing comes by way of appeal by the appellant (employee) of a Rights Commissioners recommendation against the respondent (employer) under the Unfair Dismissals Act, 1977 to 2007 reference number r-115459-11/MMG.**

#### **Background:**

The appellant was an employee with the Council as part of a FAS Community Employment Scheme on fixed term contracts. The first contract commenced on 16<sup>th</sup> March 2009 until 23<sup>rd</sup> October 2009. Her second contract ran from 26<sup>th</sup> October 2009 until 22<sup>nd</sup> October 2010. All contracts ended on 22<sup>nd</sup> October 2010 and a list was compiled with twelve names on it, including the claimant. Eleven of the people named on the list had their contract renewed. The claimant was the only person that was not given another fixed term contract. The claimant was dismissed on the recommendation of her Line Manager.

#### **Determination:**

Having considered the evidenced adduced at the hearing and the submission of the claimant and respondent the Tribunal finds that the claimant was unfairly dismissed in circumstances where there was a further two year's work available on the scheme but it was not offered to the claimant and no reason was given to the claimant at the time for not so offering. The

Tribunal finds that the respondent did not act with *mala fides* but rather acted on the recommendation of the scheme supervisor as was their normal practice. The Tribunal finds that the scheme supervisor gave the respondent no reason for such recommendation and the respondent sought none at the material time.

Accordingly the claim under the *Unfair Dismissals Acts 1977-2007* succeeds and the Tribunal directs reinstatement of the claimant as and from 22 October 2010 for the remaining two years.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_

(CHAIRMAN)