



Retirement Age and Family Discrimination Case Resolved Ahead of Hearing

Legal Representation Provided by the Irish Human Rights and Equality Commission

The Irish Human Rights and Equality Commission recently provided legal representation to an employee before the Workplace Relations Commission in an important age and family status discrimination case against a State agency and a government department.

The case, which was brought under the Employment Equality Acts 1998-2015 (the “EEA”), was withdrawn on 19 July 2017 on foot of an agreement that the employee could continue working beyond her contractual and statutory retirement age of 65, with the right to apply for a further extension thereafter.

The employee argued that, by not being allowed to continue working beyond 65, she was being discriminated against on grounds of age under section 8 of the EEA.

Section 8(1) EEA prohibits an employer from discriminating against an employee in relation to the conditions of employment (which include conditions governing retirement and extension of employment beyond retirement). For civil servants employed to do the same job, there are currently three different mandatory retirement ages of 65, 70 or none – a distinction based simply on when they were recruited.

Under Irish and EU law, imposing a compulsory retirement age constitutes “less favourable treatment” on the ground of age. While this less favourable treatment may be capable of objective justification, this will only arise if it is a proportionate measure for achieving legitimate aims.

The employee also claimed discrimination on the ground of family status as her application to work beyond the age of 65 was rejected on the basis that she does not have any dependents and, for this reason, she did not fall within the criteria set out in Government Circular 13/1975, which provides guidance on the retention of civil servants beyond the mandatory age limit.

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