

Reasons for Redundancy

The Employment Court has demonstrated in two recent cases that it will robustly test employers' reasons for making staff redundant. It is not acceptable for an employer to simply assert that it made a genuine business decision.

Rittson-Thomas v Davidson

In the first case, two farm unit manager roles were combined and a new junior shepherd position created. The new position was not offered to Mr Davidson, the redundant manager, although he could have done the job.

The cost saving achieved was only \$6,000 per year. The employer did not explain why such an efficiency at this low level was needed, particularly when he had rejected staff suggestions about other ways to reduce costs.

Mr Davidson found other work quickly so his lost wages were only \$3,000. He was also awarded compensation for distress and humiliation of \$4,000.

Brake v Grace Team Accounting Ltd

In the second case a senior accounting staff member was made redundant only six months after being employed in a long term position. Mrs Brake's employer could not explain why:

- She was employed at a time when they were overstaffed, according to their own expert witness.
- There was no evidence the financial position of the business deteriorated in the following six months.
- The employer's pressing need for redundancies was based on incorrect information, with a \$120,000 error in the turnover.
- She had been added to their restructuring proposal despite having sufficient work to do.

Despite her best efforts Mrs Brake could not find another job. She was awarded 12 months' lost salary and \$20,000 compensation for the considerable distress she suffered.

What this means for you

It is not enough to follow a fair process when consulting an employee about a proposed redundancy. In order to be justified, the employer's decision must be based on sound reasons and accurate facts.

Please contact one of our specialist employment lawyers if you would like further information or if we can help you.