

INDUSTRIAL TRIBUNAL

DECISION NO. 845

Case No. 1086

Trade Dispute

between

Claire A. Degiorgio

and

Eurosun Limited

regarding alleged unfair
dismissal

Date : 17 th June 1997

Chairman : Mr. Colin Tabone

This case was referred by the Hon. Minister of Education and Human Resources on 15th October, 1996 to the Industrial Tribunal by means of a letter reference ME 4/95/194/III in terms of Article 28(2) of Chapter 266 of the Laws of Malta.

The Tribunal held five (5) sittings.

Mrs. Claire A. Degiorgio the "appellant" was assisted by Dr. Ian Spiteri Bailey LL.D., and Eurosun Ltd the "Company" was represented by Mr. Claudio Borg assisted by Dr. Ivan Gatt LL.D.

The appellant brought as witnesses :

Paul Degiorgio

Arthur Saydon

Mario Cardona

Claire A. Degiorgio - the appellant herself

The Company brought as witnesses :

Claudio Borg
Mario Borg
Claire Farrugia
Arthur Saydon
Marco Macelli

Both the appellant and the company presented their statement of case together with lists of witnesses.

The final submissions by both parties were presented in writing.

Statement of Case

By appellant :

Mrs Degiorgio claims to have been in employment as a part-time waitress with Eurosun Ltd and alleges that her employment was terminated because her husband had left his job to work for Mario Cardona.

She claims to have been a most loyal and hardworking member of the Company's staff at Eurosun Ltd.

By Company :

The Company claims that appellant was employed as a "casual worker" rather than as a "part-time worker".

It was also stated that Mrs. Degiorgio worked a number of hours in order to be by her husband whilst he was on duty as a cook.

The Industrial Tribunal was asked to give a Decision about Company's plea as to the competence of the said Tribunal to examine this case.

Since appellant was a part-timer - the Tribunal decided that an employee working on a part-time basis is not excluded from referring its case of alleged unfair dismissal to the Industrial Tribunal.

Appellant alleges that her employment was terminated on 12th October, 1996 because her husband went to work with Mario Cardona.

The Company stated that the termination of her employment was due to redundancy and because of company policy to reduce the number of persons employed as part-timers and replace them by full timers.

Points considered by the Tribunal.

1. The Company has a right to manage its own affairs in an efficient and cost effective manner.
2. The wish of the Company to employ full-time staff in lieu of part-time staff is not a debatable point.
3. The allegation by the appellant that her termination was not due to reasons given by the company but because of the animosity that existed between the Borg Brothers and Mario Cardona appear to be realistic.
4. The evidence by both the Financial Consultant and the Restaurant Manager were not exhaustive and at times unclear.
5. At no time the company showed or proved that Mrs Degiorgio

was an incompetent and inefficient waitress.

Decision :

The Tribunal decided that :

1. The termination of employment of Mrs Degiorgio was not due to redundancy.
2. The Company pays the sum of Lm200 by way of compensation within two weeks from date of this decision.
3. In accordance with Legal Notice No. 48 of 1986 the legal fees are fixed at forty Malta Liri (Lm40).

This Trade Dispute is therefore concluded.

Colin Tabone
CHAIRMAN

George Attard
SECRETARY

mrg

