

Transfer of vet inspector was not penalisation, Court rules

Kyran Fitzgerald

The Labour Court has confirmed that the decision of the Department of Agriculture to transfer a senior official, Louis Reardon, in its investigations division to another area, was not penalisation for making a protected disclosure.

The complainant took a case initially to the WRC under the Protected Disclosures Act arguing that the transfer arose because of a protected disclosure by him.

A WRC adjudicator rejected the complaint ([*ADJ-00031151, IRN 34/2023*](#)) which Mr Reardon appealed.

He submitted that the transfer to the Wildlife Division resulted in a “diminution” in his duties and that the disclosure was the “operative reason” for the transfer.

The Court ruled that the complainant failed to establish that he suffered a detriment due to the disclosure. It was accepted by the parties that a protected disclosure was made by him.

It was noted that Department reviews in 2014 and 2018 recommended that long serving members of the Investigations unit should be moved to other duties. At the time of the transfer of the complainant in 2020, the two other officials with many years of service were also moved to other duties. Neither person made a protected disclosure.

“OFFER” TO TRANSFER

The complainant was first informed about his transfer, in 2017, but it was not implemented until March 2020. In evidence, he said that he was surprised to receive the “offer” as he had eight to ten investigations going on at the time.

There was no discussion before he was informed. He was one of the first veterinary inspectors ever to be compulsorily transferred. His new colleagues were “not expecting him” and had no work for him.

Tim Drea, head of the Investigations Unit from 2018 to 2023, said that the results of the review were known to staff. By the end of June 2020, all investigators with more than five years’ service had transferred, or had retired. As the workload had fallen due to Covid, it was a good time to make the changes. He had no knowledge of any protected disclosure by the complainant.

Mr Lyons, the complainant’s assigned line manager, denied that the new role at his division was a “make up” one. He offered training and the assignment of responsibilities to Mr Reardon who informed him several times that he was “finishing court work.”

The complainant never returned to him to indicate that he was available.

The appellant was represented by Rachel O’Flynn BL, instructed by Sean Costello Solicitors. The respondent Minister of Agriculture, Food & The Marine was represented by Sarah-Jane Hillery, instructed by Eileen Burke, Office of the Chief State Solicitor. (*PDD254, Chairman: Louise O’Donnell*)