



## Republic of Labour Law – Irish HR Updates in February

By **Niall Pelly** and **Dónall Breen** - 26 February 2021

*Welcome to our February edition of Republic of Labour Law, a monthly newsletter in which we distil the most important Irish legal and HR updates from the last month in 500 words or less.*

This week in the Republic of Labour Law, we focus on two key cases that have been making headlines.

### **Employment Injunctions**

First is a recent ground-breaking judgment from the Court of Appeal.

The second highest court in the land has effectively clamped down on employment injunctions, a welcomed decision for employers. The significance of this case was first published by GQ|Littler and subsequently picked up by several media outlets.

A wide-ranging decision, our full article can be found [here](#).

### **Working from Home**

In another widely publicised case, an employee was found to have been constructively dismissed following her employer's refusal to allow her to work from home during the Covid-19 lockdown. This case was brought in the first instance Workplace Relations Commission (WRC). Decisions of the WRC are not binding on subsequent WRC adjudicators, and each case will turn on its particular facts. However, decisions like this can be used as persuasive authority in other hearings with similar facts.

The employee, an accommodation manager, lived with clinically vulnerable relatives. She requested to work from home several days a week to mitigate the risk of infection on those days. The employer rejected this request, claiming she was always required on site. The employee resigned in response to this and brought an unfair dismissal claim.

The WRC found that the employer had acted unreasonably in refusing the employee's request to work from home in rotation with



other accommodation managers for three reasons: (i) the role involved some project management that could be done from home; (ii) the idea wasn't trialled to see whether it could work; (iii) the end client had not complained about the arrangement and had provided laptops to facilitate the remote working. Further, the WRC found that the employer's provision of PPE was not an alternative to mitigating the risk of infection that being able to work away from the office would provide.

The case did not concern a general right to work from home and there is currently no statutory entitlement for employees to request a home working arrangement (although see our [January edition](#) for news in this area).

It is unclear if the decision will be appealed. However, given the particular facts of the case (i.e. the unexplained failure of the employer to properly consider the employee's remote working proposals) and the relatively modest award (€3,712) this seems unlikely.

Finally, in other news, the Government has announced that the current rates of subsidy provided by the Employment Wage Subsidy Scheme (EWSS) will remain in place until 31 March 2021. This has been aligned with the extension of the rates of the Pandemic Unemployment Payment. Although the Government recently announced that many parts of the economy (such as hospitality) will continue to be closed until the summer, there has been no further update regarding the EWSS.

In the meantime, from all of us here at GQ|Littler Dublin, wishing you all the best.