

## **Labour Court elucidates its decision making process**

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**The Labour Court has posted a brief on how a division of the Court arrives at a decision on a “collaborative” basis following a hearing of a claim, and what happens if there is not a unanimous outcome.**

A division of the Court – of which there are currently three – is comprised of: the Chairman or a deputy chairman; a workers’ member; an employers’ member.

The Chairman and Deputy Chairmen are Ministerial appointments, following a competition conducted by the Public Appointments Service. The ordinary members are also appointed by the relevant Minister, having been put forward by the ICTU and Ibec as nominating organisations.

The ordinary members of the Court do not advocate for either side in a dispute, the Court says. Instead, they must “act independently as part of a division of the Court, bringing the perspective of their experience and expertise to the conduct of their statutory functions.”

Labour Court divisions are assigned to the business of the Court exclusively by the Court Chairman. A party or a representative cannot request that a particular Court member or division be assigned to hear a case.

Once a division is assigned to a matter, no other member of the Court, whether the Chairman, a deputy chairman or ordinary member, can have any involvement in determining the matter.

### **POST HEARING MEETING**

The Court says that as soon as is practicable following a hearing, the division will meet to deliberate on the matter.

The division “are the sole participants in the meeting and neither the Court Secretary nor any other person attends or participates in the deliberation meeting, which is essentially a private meeting.”

The meeting is chaired by the chairman of the division “but is conducted in an informal manner with the division operating in a collegiate way to seek to reach a consensus.” Decisions may be arrived at in a single meeting or may be adjourned and take several meetings.

### **PRESCRIBED BY IR ACT**

The process for decision making is prescribed by Section 20(3) of the Industrial Relations Act, 1946. This provides that where a division is unable to reach unanimous agreement on what the decision should be, then the decision is reached in accordance with the following provisions:

- If the majority of the ordinary members agree on what the decision should be, then the matter is decided accordingly;
- If the majority of the ordinary members do not agree but the majority of the division agree, then the matter is decided accordingly;
- Otherwise, the matter is decided in accordance with the opinion of the chairman of the division.

The manner in which a decision is reached “is neither recorded nor made known.”

“Nor are the existence of any assenting or dissenting opinions disclosed. A decision of a division, howsoever arrived at, is the decision of the Labour Court and is the only decision in that matter.”

Once a decision is made, the chairman of the division is responsible for compiling the written decision for issue to the parties.

While written decisions are signed by the chair of the division, this “does not alter the joint/collaborative basis of the decision”.