

STATEMENT BY THE GSLP/LIBERAL OPPOSITION

118/2007 13 December 2007

The Opposition notes that the Government has issued a statement regarding the Social Services Agency and the dismissal of Ms Johanna Hernandez in November 2005, which has been reported in the media.

It claims not to have commented previously so as not to interfere with the due process of the Tribunal, which has not yet started to consider the complaint of unfair dismissal going back 2 years.

It's a bit rich for the Government now to say that they do not want to interfere with the due process when they have attempted to prevent the complaint from being heard by arguing that the Tribunal could not hear the case because Ms Johanna Hernandez had worked one year and two days, but this was not 52 weeks continuous employment.

According to the Government the working week starts on a Sunday and therefore anyone starting work on a Monday has to work 52 weeks and 6 days before their 52 weeks count. This argument has been lost by them at the Tribunal, appealed against and lost at the Supreme Court, appealed against and lost at the Appeal Court, all at huge expense to the Tax Payer.

It contradicts the interpretation of the law that has prevailed since it was passed in 1975, that is 32 years, and it is in clear contradiction to the statements made by the Government in 1975, when the law was introduced and the term 52 weeks and one year were used interchangeably.

It is of course correct that Joe Bossano is representing Ms Hernandez and indeed many other working people who have complaints of unfair dismissal and cannot afford to engage a lawyer to represent them.

As regards the case itself, the evidence presented by the Claimant includes many witnesses that have produced statements, copies of which were provided to the Agency a year ago and which will be made public in full when the hearing finally starts some time in 2008.

Indeed, the last occasion that the Tribunal met the Claimant had to contend with the opposition of the Government to witnesses who are in Government employment coming forward to give evidence. Because the Government opposes their participation in the hearing the numbers available were considerably reduced.

The complaint of unfair dismissal arises from the fact that Ms Hernandez had her contract terminated by the Agency after bringing to its attention complaints from staff and users. And therefore it is indeed the contention of the Claimant that the real reason for her dismissal was her request that these matters be investigated, which was ignored, and not the alleged shortcomings in her performance and this will be amply demonstrated when the hearing finally takes place.

ENDS