

**COMMONWEALTH OF THE BAHAMAS**  
**INDUSTRIAL TRIBUNAL**

**No. IT/ NES/ 161 of 2019**

In The Matter of The Industrial Relations Act

And

In the Matter of the Industrial Relations (Tribunal Procedure) Rules 2010

**B E T W E E N**

**TANYA BAIN**

Applicant

**AND**

**APEX INTERNATIONAL MARKETING (NASSAU) COMPANY LIMITED**

Respondent

**BEFORE:** Her Honour Vice President Simone I. Fitzcharles

**APPEARANCES:** Mr Errol McKinney for the Applicant  
Ms Crystal Kelly-Newman for the Respondent

---

**ORDER ON DIRECTIONS**

---

**WHEREAS:**

- 1) By Certificate of Referral of a Trade Dispute dated 24 October 2019, the Minister referred the subject dispute to the Industrial Tribunal;
- 2) Pursuant to Rule 3(1) of the Industrial Relations (Tribunal Procedure) Rules, 2010 a Notice for presentation of an Originating Application was issued by the Secretary of the Industrial Tribunal to the Applicant on 5 December 2019;
- 3) The Applicant filed an Originating Application (Form A) in the Industrial Tribunal on 7 January 2020 and also filed a Form M seeking the joinder of the appropriate legal entity

bearing the obligations of the Respondent along with Mr Emile Jarrett, President of the Respondent;

- 4) Pursuant to Rule 4 of the Industrial Relations (Tribunal Procedure) Rules, 2010 a Notice of the Originating Application (Form C) was issued by the Tribunal to the Respondent on 13 January 2020;
- 5) A Notice of Appearance (Form D) was entered by the Respondent on 17 February 2020 and a Defence (Form E) was filed on 6 March 2020;
- 6) This matter was listed for a Case Management hearing on 23 July 2020 which was served on the Applicant and the Respondent on 29 June 2020.
- 7) The Tribunal recognizes that the COVID-19 pandemic is still at large in the Commonwealth of The Bahamas and that person-to-person contact should be minimized as a preventative measure. The Tribunal also takes note of the fact that the Respondent and its representative are based in Grand Bahama, while the Applicant and her representative are based in New Providence two separate and distinct islands in the Commonwealth.

**IT IS HEREBY ORDERED** as follows:

**Filing and Exchange of Pleadings**

1. The Respondent's counsel shall register as soon as possible, (but in any event before it complies with the direction in paragraph 2 of this order), as counsel with the electronic Attaché platform provided by the Industrial Tribunal so as to enable the Respondent to continue with these proceedings from its Grand Bahama base.
2. The Applicant and Respondent shall file their witness statements, bundles of documents and skeleton arguments and serve the same on each other by no later than 28 August 2020;
3. The Applicant and the Respondent shall file and serve on each other any supplemental witness statements, documents and/or skeleton arguments they deem necessary on or before 4 September 2020;

4. During the persistence of the COVID-19 pandemic in The Bahamas, the parties shall have liberty to comply with the filing requirements of this order either physically or by using the Attaché platform provided by the Tribunal. Additionally, the parties shall have liberty to comply with the service requirements of this order either physically or by using email for service of documents on each other.

#### **The Duration, Witnesses and Mode of Trial**

5. Each party shall be at liberty to call one (1) witness and the trial of this cause shall be set for one (1) day; and
6. The trial may take place either electronically using the Zoom platform provided by the Tribunal or alternatively, may take place in person, in its entirety or in part, depending upon whether Emergency Orders which affect the trial (inasmuch as the movement and gathering of persons are thereby curtailed), are in place at the time the trial is scheduled to take place. The Tribunal shall therefore notify the parties in advance of the trial as to the mode of the same, that is, whether it shall take place in person or electronically, or using both modes.

#### **Application to Join Parties**

7. Inasmuch as the Respondent's counsel has represented to the Tribunal, referencing the contract of employment which once existed between the parties, that the proper legal name of the entity which stood in an employer-employee relationship with the Applicant is Apex International Marketing (Nassau) Company Limited, the Tribunal orders that the name Apex International Marketing (Nassau) Company Limited be joined as the Respondent in substitution for Apex International Marketing.
8. The application to join the President of Apex International Marketing (Nassau) Company Limited is refused on the basis the Tribunal is not persuaded on the oral submissions of the Applicant, and not having seen any evidence to the contrary, that Emile Jarrett, in his

capacity as President of the Respondent, bears in this dispute the legal obligations of the Respondent employer, a separate legal entity with its own rights and responsibilities.

**AND THIS IS THE ORDER OF THIS TRIBUNAL**

Dated this 23<sup>rd</sup> day of July A.D. 2020.

Her Honour

---

**Simone I. Fitzcharles**

**Vice President**