

COMMONWEALTH OF THE BAHAMAS

NP2019-112

**INDUSTRIAL TRIBUNAL
New Providence**

In The Matter Of the Industrial Relations Act Chapter 321

AND

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

BETWEEN:

CORDELL BAIN

APPLICANT

VS.

ISLAND HOTEL COMPANY LIMITED

RESPONDENT

Appearances: Mr. Bernard Ferguson on behalf of the Applicant
Mrs. Chernenka Brown on behalf of the Respondent

Before: Her Honour, Vice President Ingrid Cooper-Brooks

ORDER

Whereas:

1. By Certificate of Referral dated 17th July, 2019 the Minister referred the Trade Dispute to the Industrial Tribunal; and
2. In accordance with Rule 3 (1) of the Industrial Relations (Tribunal Procedure) Rules, 2010 a Notice for an Originating Application (Form A) was sent by the Secretary to the Tribunal on the 19th August, 2019 to the Applicant
3. The Industrial Tribunal successfully served the Applicant Notice for an Originating Application on the 21st August, 2019;

4. An Originating Application (Form A) has been filed in the Industrial Tribunal relating to this matter on 5th September, 2019;
5. The matter was set for Case Management on the 16th December, 2019 and Notice for the hearing (Form J) was served on the Applicant with proof of service on 15th November, 2019;
6. On 21st November, 2019 Legal Representative on behalf of the Applicant, Mr. Errol McKinney wrote seeking on Adjournment;
7. The matter was set for Case Management on 20th January, 2020 and Notice for the said Hearing (Form J) was Served on the Applicant with proof of Service on 7th January 2020;
8. A Consent Order on Directions was issued on 4th February, 2020.
9. The matter was listed for Case Management on 23rd October, 2020, with proof of Service on 7th September, 2020;
10. On 8th October, 2020, Mr. McKinney withdrew his services by letter, indicating he had not received further instructions from the Applicant to proceed with the matter.
11. The matter was relisted for Case Management on 16th March, 2021, with proof of Service on 25th January, 2021;
12. On 15th April, 2021 newly appointed Counsel appeared on behalf of the Applicant and request on adjournment;
13. The matter was relisted for Case Management on 13th July, 2021 with proof of service on 24th June, 2021;
14. On the 13th July, 2021 there was no appearance by the Applicant. Counsel sought an adjournment, indicating that the Applicant had overlooked the time schedule. Also he had not made himself available to give instructions. New Order Direction was issued.
15. On 4th August, 2021 the matter was listed for hearing. At the hearing there was no Appearance by the Applicant. Counsel then made application to withdraw as Counsel, indicating he was still unable to obtain further instructions as the Applicant was not making himself available, although he was aware of the hearing today;
16. Counsel for the Respondent make application to have the matter struck out, making note of the occasions that the matter had been previously adjourned for the non-appearance of the Applicant;

17. By virtue of Rule 12(1)(f) of the Industrial Relations (Tribunal Procedure) Rules 2010 the Tribunal may on the application of the Respondent, or of its own motion, order an Originating Application to be struck out for Want of Prosecution. Rule 12(1)(f) states as follows :

“The Tribunal may –

on the application of the Respondent or of its own motion order an

Originating Application to be struck out for want of prosecution”.

18. Having regard to the above-mentioned facts as outlined above, the Tribunal hereby orders that the matter be struck out pursuant to Section 12(1)(f) of the Industrial Relations (Tribunal Procedure) Rules 2010, for want of prosecution.

AND THIS IS THE ORDER OF THIS TRIBUNAL

Dated this 4th day of August, A.D., 2021.

Ingrid Cooper-Brooks
Vice President