

COMMONWEALTH OF THE BAHAMAS

No. IT/ NES/ NP2021-202

INDUSTRIAL TRIBUNAL

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

SHELLY-ANN PIERRE

Applicant

AND

LANCE GIBBS T/A COUPLES PARADISE

Respondent

APPEARANCES: Mr Hilbert Collie for the Applicant

Ms Yvette Rahming with Ms Gabrielle Rahming for the Respondent

BEFORE: Her Honour Vice President Simone I Fitzcharles

ORDER ON DIRECTIONS

For Hearing of Preliminary Applications

WHEREAS:

- 1) By Certificate of Referral of a Trade Dispute dated 12 October 2021, 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 3 November 2021;
- 3) The Applicant filed an Originating Application (Form A) in the Industrial Tribunal on 12 November 2021;

- 4) Pursuant to Rule 4 of the Industrial Relations (Tribunal Procedure) Rules, 2010 a Notice of the Originating Application (Form C) was issued on 18 November 2021 by the Tribunal to the Respondent;
- 5) A Notice of Appearance (Form D) was entered by the Respondent on 25 November 2021. A Defence (Form E) and Notice of a request for Further and Better Particulars (Form F) were filed by the Respondent on 7 December 2021;
- 6) This matter was listed for a Case Management hearing on 2 March 2022, notice of which (by Form J) was served on the Applicant and on the Respondent, respectively, on 17 February 2022.
- 7) The Tribunal indicated it would grant the application for further and better particulars. The parties also each canvassed that they would wish to make a preliminary application:
 - (i) for the Applicant, pursuant to section 71 of the Industrial Relations Act, an application to enforce a partially-performed settlement agreement between the parties; and
 - (ii) for the Respondent, pursuant to Rule 9 of the Industrial Relations (Tribunal Procedure) Rules, an application to challenge the standing of the Applicant to bring these proceedings on the basis that the relationship between the parties is that of independent contracting parties, and not employer and employee which would found the Tribunal's jurisdiction to hear the matter.

IT IS HEREBY ORDERED as follows:

Further and Better Particulars

1. The Tribunal hereby grants the application for further and better particulars filed on 7 December 2021 by the Respondent and orders that the Applicant file with the Tribunal and serve on the Respondent on or before **Wednesday 30 March 2022** a document headed 'Response to Application for Further and Better Particulars' which sets out those particulars applied for by the Respondent in his Notice (Form F).

Preliminary Applications and Responses

2. The Applicant shall file her foreshadowed preliminary application pursuant to section 71 of the Industrial Relations Act for enforcement of a partially-performed settlement agreement, any Witness Statement in support thereof, a Bundle of Documents (if any) and Skeleton Argument and serve the same on the Respondent by no later than **Wednesday 30 March 2022;**
3. The Respondent shall file his foreshadowed preliminary application pursuant to rule 9 of the Industrial Relations (Tribunal Procedure) Rules in challenge to the standing of the Applicant to bring these proceedings, any Witness Statements in support thereof, a Bundle of Documents (if any) and Skeleton Argument and serve the same on the Applicant by no later than **Wednesday 27 April 2022;**
4. The Applicant and the Respondent shall file with the Tribunal and serve on each other any evidence and/or legal arguments in response to each other's preliminary applications on or before **Wednesday 25 May 2022;**
5. Each party shall be at liberty to call up to two (2) witnesses at the hearing of these preliminary applications which shall be set down for 2 days on **Tuesday and Wednesday 30 and 31 May 2022;** and
6. The parties shall have liberty to apply for further directions and/or to vary these directions.

AND THIS IS THE ORDER OF THIS TRIBUNAL

Dated this 2nd day of March A.D. 2022.

Simone I Fitzcharles
Vice President