

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

LA'NEISHA SMITH

Applicants

AND

**SAND DOLLAR RESORT
t/a SAND DOLLAR COMPANY LIMITED**

Respondents

APPEARANCES: Mr Hilbert Collie for the Applicant

Mr Joseph Moxey for the Respondent

BEFORE: Her Honour Vice President Simone Fitzcharles

ORDER ON SETTLEMENT

WHEREAS:

- 1) By Certificate of Referral of a Trade Dispute issued on 17 February 2022, 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 18 March 2022;

- 3) The Applicant filed an Originating Application (Form A) in the Industrial Tribunal on 28 March 2022;
- 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 04 April 2022;
- 5) A Notice of Appearance (Form D) was entered on 12 April 2022 and a Defence (Form E) on 27 June 2022 by the Respondent;
- 6) This matter was listed for a Case Management hearing for 14 July 2022, notice of which was served on the Applicant and the Respondent (Form J).
- 7) At the Case Management hearing the Tribunal canvassed the topic of the narrowing of the issues in relation to which there is jurisdiction to give a determination. It was agreed by both legal representatives that only the issue of pay in lieu of notice is properly before the Tribunal, which diminished the claim to a relatively negligible amount.
- 8) The Tribunal sought submissions from Mr Collie and Mr Moxey on the sustainability of the claim and it was agreed that there are different interpretations of the entitlement, if any, of the Applicant which could lead to success or failure of the claim, particularly since the termination was done in or immediately after a "trial" period of employment.
- 9) The Tribunal encouraged the parties to speak with each other about the merits, and eventually, for the Applicant's representative to discuss viability of the claim with her privately. Following the above discussions, the Applicant's representative submitted to the Tribunal that in the circumstances, his client would no longer pursue the claim and would instead accept the payment already made by the Respondent to the Applicant on 27 October 2021 of \$2083.00 (2 weeks' salary) and \$4,166.00 (ex gratia payment) in full and final settlement of the matter.

IT IS HEREBY ORDERED as follows:

In light of the settlement of this trade dispute in the global amount of \$6,249.00 paid by the Respondent to the Applicant by cheque #3710 on 27 October 2021, receipt of which

the Applicant has admitted, and pursuant to powers under Section 58(1)(d) of the Industrial Relations Act, the Tribunal shall refrain from further adjudication of this trade dispute as the matter has been fully and finally disposed of.

AND THIS IS THE ORDER OF THIS TRIBUNAL

Dated this 14th day of July A.D. 2022.

Simone I Fitzcharles
Vice President