

NP2021-057

**INDUSTRIAL TRIBUNAL**

**COURT #3 SAFFREY SQUARE, EAST & BAY STREETS, NEW PROVIDENCE  
COMMONWEALTH OF THE BAHAMAS**

Before

**Mrs. Rionda Godet Vice President (Acting)**

**(Sitting Alone)**

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**ARTHUR HUMES**

**Applicant**

**AND**

**AML FOOD LIMITED dba SOLOMON'S FRESH MARKET** Respondent

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**ORDER OF DISMISSAL**

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APPEARANCES

For the Applicant

Regina Bonaby - Attorney

For the Respondent

Lucia Broughton-Attorney

**WHEREAS:**

- 1) On 8<sup>th</sup> December 2021, the Applicant, represented by Attorney Donovan Gibson, and the Respondent represented by Attorney Lucia Broughton, appeared for Case Management before VP Simone FitzCharles.
- 2) It was ordered that the Applicant would file and serve his Witness Statement and Bundle of Documents on the Respondent on or before Tuesday 18<sup>th</sup> January 2022, and that the Respondent would file and serve its Witness Statements and Bundle of Documents on the Applicant on or before Tuesday 1<sup>st</sup> February 2022.
- 3) Moreover, *inter alia*, the Applicant was to file and serve on the Respondent his Skeleton Arguments and Authorities on or before Tuesday 15<sup>th</sup> February 2022 and the Respondent was to file and serve its Skeleton Arguments on the Applicant on or before Tuesday 1<sup>st</sup> March 2022.
- 4) It was further ordered that the parties would have liberty to apply for further directions and/or to vary these directions.
- 5) On 15<sup>th</sup> September 2022, both the Applicant's Representative at Munroe & Associates and the Respondent's Representative at Broughton Cartwright & Co. were duly served the Form J which advised of the Hearing of this matter being set for October 3<sup>rd</sup> 2022.
- 6) At the Hearing hereof, the Applicant's Representative, Ms. Regina Bonaby appeared. The Applicant himself however, did not appear nor has there been any compliance with the Order for Directions set out on 8<sup>th</sup> December 2022. There is nothing before the Court whereupon this matter may be adjudicated. The Applicant's Representative averred that the Applicant knew of the fixture and was to have met at his Attorney's Chambers, and that he appeared to have forgotten about the day's hearing.
- 7) Counsel Bonaby can offer no explanation as to why neither the Form L – *Application for Extension of Time* – or an application to vary the stated directions were not applied for in advance of the hearing date. The Respondent's Representative calls for the matter to be dismissed on the basis of the Applicant's failure to properly prosecute his own matter and that the Applicant at all times was duly represented by Counsel, so would have had no excuse.
- 8) The Court enquired as to efforts to resolve the matter pursuant to Section 60 of the Industrial Relations Act to attempt resolution. The parties having not previously made effort to communicate along this line, the matter was stood down for the parties to otherwise attempt amicable resolve, ultimately with nil effect.
- 9) Upon resumption, the Applicant, not being present for his own matter; and the parties not having come to resolution; there being nothing before the Court for the Respondent to give response to, and there being provided no reasonable explanation for the Applicant's failure to comply with the terms of the Case Management Order or to make

application for the extension or time or to vary the terms of the Order; the Court considers that the Applicant has failed to prosecute his own case.

- 10) It is the Applicant's Originating Application that has brought the Respondent to the Tribunal to give answer to the matters claimed therein. It was therefore incumbent on the Applicant to avail the necessary resources to comply with the terms of the Case Management Order and to effect proper dialogue and communication with his attorneys concerning same. This is the Applicant's case, and it is the Applicant who is charged with the responsibility of prosecuting it with the assistance of his legal advisors.
- 11) Accordingly, in the absence of any reasonable responses as touching the Applicant's failure to put in place from January 2022, any range of actions to support the hearing of his matter, this Court has no choice but to dismiss this action for want of prosecution. At all times, the Applicant was duly represented and is deemed to be aware of the steps required to advance his claim.
- 12) This matter accordingly stands dismissed for want of prosecution by the Applicant.

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

Dated this 3<sup>rd</sup> day of October, A.D., 2022

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**Rionda Godet**  
**Vice President (Acting)**  
**Industrial Tribunal**