

INDUSTRIAL TRIBUNAL

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

Before

Mrs. Rionda Godet Vice President (Acting)

(Sitting Alone)

JULIAN STEWART-JOSEPH

Applicant

AND

AML FOOD LIMITED dba SOLOMON'S FRESH MARKET

Respondent

ORDER OF DISMISSAL

APPEARANCES

For the Applicant

Regina Bonaby - Attorney

For the Respondent

Lucia Broughton-Attorney

WHEREAS:

- 1) On 8th 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 her Witness Statements and Bundle of Documents on the Respondent on or before Tuesday 25th January 2022, and that the Respondent would file and serve its Witness Statements and Bundle of Documents on the Applicant on or before Tuesday 15th February 2022.
- 3) Moreover, *inter alia*, the Applicant was to file and serve on the Respondent her Skeleton Arguments and Authorities on or before Tuesday 22nd February 2022 and the Respondent was to file and serve its Skeleton Arguments on the Applicant on or before Tuesday 1st 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 15th September 2022, both the Applicant's Representative at Higgs & Johnson 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 3rd 2022.
- 6) Notably, at the hearing hereof, Attorney Nigel Smith of Higgs & Johnson appeared, albeit, presumably not for the Applicant but for the Respondent. The matter was stood down for the parties to determine who the appointed attorneys for the parties were. Upon the resumption thereof, Attorney Regina Bonaby appeared for the Applicant, Attorney Lucia Broughton appeared for the Respondent, and Attorney Nigel Smith was excused from further involvement.
- 7) Appearances having been determined, the Court notes the absence of the Applicant and noted that there appeared to have been no compliance with the Order for Directions set out on 8th December 2022. There is nothing before the Court whereupon this matter may be adjudicated. The Applicant's Representative averred that her Chambers had made contact with the Applicant and advised her of the fixture along with her need to address particular matters at the Firm.
- 8) As touching the matter of non compliance with the Case Management Order, 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 her own

matter and that the Applicant at all times was duly represented by Counsel, so would have had no excuse.

- 9) 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.
- 10) Upon resumption, the Applicant, not being present for her 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 her own case.
- 11) 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 her 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 her legal advisors.
- 12) 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 her 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 her claim.
- 13) This matter accordingly stands dismissed for want of prosecution by the Applicant.

AND THIS IS THE ORDER OF THIS TRIBUNAL

Dated this 3rd day of October, A.D., 2022

Rionda Godet
Vice President (Acting)
Industrial Tribunal