

INDUSTRIAL TRIBUNAL

**COURT #2 FREEPORT INSURANCE CENTER, 21B WEST MALL & POINCIANA
DRIVE, FREEPORT, GRAND BAHAMA, COMMONWEALTH OF THE BAHAMAS**

Before

MRS. HELEN J. ALMORALES-JONES (VICE-PRESIDENT)

(SITTING ALONE)

BASIL MILLER

APPLICANT

CONET BAHAMAS LTD.

RESPONDENT

ORDER ON DIRECTIONS

APPEARANCES

For the Applicant

Osman R.C. Johnson, Esquire
Ayse Rengin Dengizer-Johnson
Freeport, Grand Bahama
The Bahamas

For the Respondent

Mrs. Cassietta M^cIntosh-Pelecanos
M^cIntosh & Co.
Freeport, Grand Bahama
The Bahamas

WHEREAS:

- 1) On the 25th October, 2022, **Basil Miller** ("the Applicant") filed a **Report of a Trade Dispute** against **Conet Bahamas Ltd.** ("the Respondent") with the Department of Labour in Grand Bahama, The Bahamas;
- 2) The **Report of a Trade Dispute** stated, inter alia, that the issue(s) relevant to the dispute were *Unfair Dismissal, Wrongful Dismissal, Severance pay* and *Vacation pay*;
- 3) By a **Certificate of Referral** dated the 30th November, 2022 (received on the 30th January, 2023), the Honourable Minister of Labour & Immigration referred this trade dispute to the Industrial Tribunal, Northern Region, ("the Tribunal");
- 4) On the 31st January, 2023, the Tribunal served the **Applicant** with notice of the referral;
- 5) The Applicant filed a **Form A** (Originating Application) on the 6th February, 2023, in accordance with **Rule 3(1)** of **The Industrial Relations (Tribunal Procedure) Rules, 2010** ("The Rules");
- 6) On the 7th February, 2023, the Tribunal served a copy of the **Form A** (Originating Application) and a **Form C** (Notice of Originating Application) and blank **Form D** (Notice of Appearance) on the **Respondent's place of business** (received by xxx) in accordance with **Rule 4** of **The Rules**;
- 7) The **Respondent** filed a **Form D** (Notice of Appearance) on the 9th February, 2023, in accordance with **Rule 5(1)** of **The Rules**;
- 8) The **Respondent** filed a **Form E** (Defence) on the 16th February, 2023, in accordance with **Rule 6** of **The Rules**;
- 9) On the 20th February, 2023, the Tribunal served Counsels for both parties with a **Form J** (Notice of Hearing) setting this matter down for **Case Management** at 10:00 a.m. on Tuesday, 7th March, 2023, giving them at least 14 days' notice of the hearing in accordance with **Rule 8(1)** of **The Rules**;
- 10) The Applicant's Counsel confirmed that the Applicant's claims are for **Wrongful Dismissal** and **Unfair Dismissal**;
- 11) Both parties agreed that their working relationship was governed by a written employment contract and an Employee Policies & Procedure Handbook;

- 12)The **Respondent's Counsel** gave the Tribunal an unsigned copy of the employment contract and undertook to:-
- e-mail a copy of the unsigned employment contract to the Applicant's Counsel; and
 - e-mail a copy of the Employee Policies & Procedure Handbook to both the Tribunal and the Applicant's Counsel;
- 13)The Tribunal directed that the **Applicant's Counsel** e-mail the Tribunal and the Respondent's Counsel particulars of the Applicant's allegation of ***Unfair Dismissal***;
- 14)The **Tribunal** ascertained that both parties agreed that the Applicant was an employee of the Respondent and the Respondent dismissed the Applicant;
- 15)The **Tribunal** identified the issues in dispute to be:-
- Whether the Applicant held a supervisory position at the time of his termination;
 - Whether the Respondent had just cause to summarily dismiss the Applicant (was Applicant was guilty of minor breaches of discipline that amounted to a fundamental breach of the employment contract or to acting in a manner repugnant to the Respondent's fundamental interests **and** did the Respondent discharge its statutory burden under **Section 33** of **The Employment Act, 2001**); and
 - Whether the Respondent unfairly dismissed the Applicant;
- 16)Pursuant to **Section 58(1)(a)** of **The Industrial Relations Act, Cap. 321**, the **Tribunal** remitted the trade dispute to the parties' Counsels for further consideration, with a view to settling or reducing the issues of Wrongful and Unfair Dismissal;
- 17)The **Applicant's Counsel** advised that the Applicant will testify and may call 2 or 3 witnesses on his behalf;
- 18)The **Respondent's Counsel** advised that the Respondent will call 4 witnesses in its defence;
- 19)**Both Counsels** elected to have the witnesses give *viva voce* testimony; and
- 20)The **Tribunal** estimated that the trial may last 2 days;

IT IS HEREBY ORDERED as follows:-

1. The **Respondent's Counsel** e-mail a copy of the unsigned employment contract to the Applicant's Counsel;
2. The **Respondent's Counsel** e-mail a copy of the Employee Policies & Procedure Handbook to both the Tribunal and the Applicant's Counsel;
3. The **Applicant's Counsel** e-mail the Tribunal and the Respondent's Counsel particulars of the Applicant's allegation of *Unfair Dismissal*;
4. This matter is adjourned for trial at 10:00 a.m. on Monday, 17th and Tuesday, 18th July, 2023;
5. Both parties file their **List of Documents, Bundle of Documents** and **Brief** or **Skeleton Arguments**, if any, with the Tribunal at least 7 days before the trial date (by Friday, 7th July, 2023) and, at the same time, serve a copy on the other side; and
6. The Tribunal serve the **Order On Directions** and a **Form J** (Notice of Hearing) for trial before the Tribunal at 10:00 a.m. on Monday, 17th and Tuesday, 18th July, 2023 on both Counsels.

DATED: This 7th day of March, A.D., 2023.

**Her Honor, Helen J. Almorales-Jones,
Vice-President**