

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)

OPIUM STUART

APPLICANT

GRAND BAHAMA POWER COMPANY

RESPONDENT

ORDER ON DIRECTIONS

APPEARANCES

For the Applicant

Mr. Roscoe Burrows
President
Commonwealth Electrical
Workers Union
Labour Advocate
Freeport, Grand Bahama
The Bahamas

For the Respondent

Edward J. Marshall II, Esquire
Delaney Partners
Nassau, New Providence
The Bahamas

WHEREAS:

- 1) On the 6th October, 2022, **Opium Stuart** ("the Applicant") filed a **Report of a Trade Dispute** against **Grand Bahama Power Company** ("the Respondent") with The Department of Labour in Grand Bahama, The Bahamas, which stated that the issues relevant to the trade dispute were ***Industrial Agreement Article 19(5), Breach of contract, Wrongful Dismissal*** and ***Unfair Dismissal***;
- 2) By a **Certificate of Referral** dated the 9th February, 2023 (received on the 24th February, 2023), the Honourable Minister of Labour & Immigration referred the said trade dispute to the Industrial Tribunal, Northern Region, ("the Tribunal");
- 3) On the 3rd March, 2023, the Tribunal served the **Applicant** with notice of the referral;
- 4) On the 6th March, 2023, the **Applicant** filed a **Form A** (Originating Application) in accordance with **Rule 3(1) of The Industrial Relations (Tribunal Procedure) Rules, 2010** ("The Rules");
- 5) On the 7th March, 2023, the Tribunal served a copy of the **Form A** (Originating Application), together with a **Form C** (Notice of Originating Application) and a blank **Form D** (Notice of Appearance) on the **Respondent** (received by *Leah Roker*) in accordance with **Rule 4 of The Rules**;
- 6) On the 10th March, 2023, the **Respondent** filed a **Form D** (Notice of Appearance) in accordance with **Rule 5(1) of The Rules**;
- 7) On the 24th March, 2023, the **Respondent** filed a **Form E** (Defence) in accordance with **Rule 6 of The Rules**;
- 8) The **Tribunal** today (18th April, 2023) conducted a **Case Management** hearing in this matter, pursuant to **Rule 15 of The Rules**;
- 9) The **Applicant's Representative** advised that the **Form A** (Originating Application) erroneously stated that the Applicant's Representative was ***Commercial Electrical Workers Union***, instead of **Commonwealth Electrical Workers Union**;
- 10) The **Applicant's Representative** today filed a **Form P** (Notice of Change of Address) to correct the name of the Applicant's Representative;

- 11)The **Applicant** agreed that she commenced employment with the Respondent on the *27th August, 2018*, as stated at **No. 4(d)** of the Respondent's **Form E** (Defence);
- 12)The **Tribunal** ascertained that the Respondent had compensated the Applicant in accordance with the provisions of **Article 19(5)** of the parties Industrial Agreement ("I.A.") upon termination of her employment;
- 13)On the 9th February, 2023, The Bahamas Court of Appeal rendered the decision in Ind.Trib.App. CAIS No. 85 of 2022, **Grand Bahama Power Company Limited v. Commonwealth Electrical Workers Union**, which set aside the Tribunal's ruling that the true and correct interpretation of the provisions of the parties' I.A. was that the Respondent was required to consult with the said Union when deciding to terminate the employment contract of an employee (who was a part of the bargaining unit) under **Article 19(5)** of the I.A.;
- 14)In light of the foregoing, the **Applicant's Representative** withdrew the Applicant's claim for *Wrongful Dismissal* against the Respondent;
- 15)The **Tribunal** directed that the **Applicant's Representative** provide the Respondent's Counsel with further and better particulars of the Applicant's claim for *Unfair Dismissal*, in writing, within 7 days from today, detailing the unfair treatment she alleged she received from certain person's in the Respondent's Management and why she believed that the Respondent terminated her because of a complaint she lodged to the Respondent's parent company (*Omera*) via a hotline;
- 16)The **Applicant's Representative** advised that the Applicant was seeking compensation for *Unfair Dismissal* in accordance with the provisions of **The Employment Act, Cap. 321A** ("The E.A.");
- 17)The **Tribunal** encouraged the parties to attempt to resolve the Applicant's claim for *Unfair Dismissal* as her basic award for *Unfair Dismissal* under **Section 46** of **The E.A.** ranges **\$ 4,320.00** (using the rate of pay stated in the Applicant's **Form A**, Originating Application) and **\$ 4,886.52** (using the rate of pay stated in the Respondent's **Form E**, Defence), not including a compensatory award;
- 18)Pursuant to **Section 58(1)(a)** of **The Industrial Relations Act, Cap. 321**, the **Tribunal** remitted the trade dispute to the parties for further consideration, with a view to settling or reducing the sole remaining issue in dispute (*Unfair Dismissal*);
- 19)The **Applicant's Representative** advised that if the matter is not settled and proceeds to trial, the Applicant will testify and call 1 Witness on her behalf;

20)The **Respondent's Counsel** advised that the Respondent may call 2 to 3 Witnesses in its defence;

21)The **Tribunal** estimated that the trial may last 2 days;

22)**Both parties** agreed that if the matter is not settled by the 31st May, 2023:-

- The parties will file any requisite **Form** for discovery (as they deem necessary) with the Tribunal;
- The Tribunal will then serve the consequential **Order** requisitioning the requested information/documents on the necessary party;
- The parties will file a **Statement of Agreed Facts and Issues** as well as an agreed **List of Documents** and **Bundle of Documents** with the Tribunal;
- The parties will file **Witness Statements** with the Tribunal and serve it on each other at the same time; and
- During the trial, the parties will apply to tender into evidence any document that was not agreed in the joint **List of Documents** and **Bundle of Documents**; and

23)The **Tribunal** directed that in accordance with **Rule 3(5)** and **(6)** of **The Rules**, the parties file any **Brief, Skeleton Arguments** or **Written Representations** with the Tribunal at least 7 days before the start of the trial and at the same time serve a copy on the other party;

IT IS HEREBY ORDERED THAT:-

1. The **Applicant's Representative** provide the Tribunal and the Respondent's Counsel with further and better particulars of the Applicant's claim for *Unfair Dismissal*, in writing, by Tuesday, 25th April, 2023;
2. The matter be adjourned to 10:00 a.m. on Tuesday, 1st and Wednesday, 2nd August, 2023, for trial;
3. The **parties** file the **Statement of Agreed Facts and Issues** as well as the agreed **List of Documents** and **Bundle of Documents** with the Tribunal by 3:00 p.m. on Monday, 17th July, 2023;

4. The **parties** file their **Witness Statements** with the Tribunal by 3:00 p.m. on Monday, 17th July, 2023, and at the same time serve a copy on the other party (via e-mail); and
5. The **parties** file any **Brief, Skeleton Arguments** or **Written Representations** with the Tribunal by 3:00 p.m. on Wednesday, 26th July, 2023, and at the same time serve a copy on the other party.

AND THIS IS THE ORDER OF THE TRIBUNAL.

DATED: This 18th day of April, A.D., 2023.

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