

**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)**

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**CARLTON PRATT**

**APPLICANT**

**BAHAMA ROCK**

**RESPONDENT**

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**ORDER ON DIRECTIONS**

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**APPEARANCES**

For the Applicant

Constance McDonald, K.C.  
Freeport, Grand Bahama  
The Bahamas

For the Respondent

Counsels, Zia Lewis-Adams &  
Lavette Kemp  
Graham Thompson  
Freeport, Grand Bahama  
The Bahamas

**WHEREAS:**

- 1) On the 9<sup>th</sup> December, 2022, **Carlton Pratt** filed a **Report of a Trade Dispute** against **Bahama Rock Limited** with The Department of Labour in Grand Bahama, The Bahamas;
- 2) It stated that the issue(s) relevant to the dispute were *Unfairly Dismissal, Wrongful Dismissal, Vacation pay, Saving (sic) plan* and *Severance pay*;
- 3) By a **Certificate of Referral** dated the 21<sup>st</sup> February, 2023 (received on the 9<sup>th</sup> March, 2023), the Honourable Minister of Labour & Immigration referred the trade dispute between **Carlton Pratt** ("the Applicant") and **Bahama Rock** ("the Respondent") to the Industrial Tribunal, Northern Region, ("the Tribunal");
- 4) On the 10<sup>th</sup> March, 2023, the Tribunal served the **Applicant** with notice of the referral;
- 5) The Applicant filed a **Form A** (Originating Application) on the 17<sup>th</sup> March, 2023 in accordance with **Rule 3(1) of The Industrial Relations (Tribunal Procedure) Rules, 2010** ("The Rules");
- 6) On the 21<sup>st</sup> 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's place of business (received by *Alisa Anderson*), in accordance with **Rule 4 of The Rules**;
- 7) The **Respondent** filed a **Form D** (Notice of Appearance) on the 27<sup>th</sup> March, 2023, in accordance with **Rule 5(1) of The Rules**;
- 8) The **Respondent** filed a **Form E** (Defence) on the 6<sup>th</sup> April, 2023, in accordance with **Rule 6 of The Rules**;
- 9) The Tribunal today conducted a **Case Management** hearing in this matter pursuant to **Rule 15 of The Rules**;
- 10) Counsels for both parties agreed that the issues of *Vacation pay* and *Savings plan* were settled at conciliation meetings held at The Department of Labour;
- 11) Counsels for both parties agreed that only the issues of *Unfair Dismissal* and *Wrongful Dismissal* (which included the issue of *Severance pay*) were left to be determined by the Tribunal;

12)The Tribunal ascertained from the parties that the facts in dispute include, but are not limited to:-

- Whether or not the terms of the parties' employment contract were only verbal or partly verbal and partly written;
- Whether or not the parties' working relationship was governed by the Respondent's written Safety Handbook;
- Whether or not the Applicant was legally bound by the information the Respondent communicated to him at the Safety briefing that takes place at the beginning of his shift;
- Whether or not the Applicant drove the Bulldozer machine he was operating into the water because he fell asleep while operating it or because of the Respondent's failure to follow International safety standards;
- Whether or not the Applicant spoke to Police Officers while he was hospitalized at the Rand Memorial Hospital after the incident;
- Whether or not the Applicant told Police Officers that he had fallen asleep while operating the Bulldozer machine; and
- Whether or not the Applicant refuted the allegation that he had fallen asleep while operating the Bulldozer machine at a meeting with the Respondent on the 22<sup>nd</sup> September, 2022;

13)The Tribunal assessed that the Applicant's claim for:-

- **Wrongful Dismissal** under **Section 29(2)(b)(i)** and **(ii)** of **The Employment Act, Cap. 321A**, amounts to **\$ 11,776**; and
- **Unfair Dismissal** under **Section 46** (Basic award) amounts to **\$ 15,360**;

14)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 it out of Court;

15)The **Applicant's Counsel** advised that the Applicant will testify and not call any other witnesses on his behalf;

16)The **Respondent's Counsel** advised that the Respondent will call at least 4 witnesses in its defence;



17)The **Tribunal** decided on the following trial format:-

- The Applicant's Counsel will have 4 weeks from today to file a Witness Statement for the Applicant, which will constitute his evidence-in-chief, but he will be permitted to give *viva voce* testimony to tender into evidence any documents or items and in cross-examination and re-examination;
- Thereafter, the Respondent's Counsel will have 4 weeks to file Witness Statements for its witnesses, which will constitute their evidence-in-chief, but they will be permitted to give *viva voce* testimony to tender into evidence any documents or items and in cross-examination and re-examination;
- Thereafter, the parties will have until the end of July 2023 to file their List of Documents and Bundle of Documents (if any) with the Tribunal and at the same time serve a copy thereof on Counsel for the other side; and
- The parties may submit a *Brief or Skeleton Arguments* to the Tribunal and at the same time serve a copy on the other side no later than 7 days prior to the commencement of the trial [**Rule 3(5) of The Rules**];

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

**IT IS HEREBY ORDERED THAT:-**

1. This matter be adjourned to 10:00 a.m. on Tuesday, 15<sup>th</sup> and Thursday, 17<sup>th</sup> August, 2023, for trial;
2. The Applicant's Counsel file a **Witness Statement** for the Applicant by on or before 3:00 p.m. on Thursday, 15<sup>th</sup> June, 2023, and at the same time, serve a copy thereof on the other party;
3. The Respondent's Counsel parties file **Witness Statements** for the Respondent's witnesses by on or before 3:00 p.m. on Thursday, 13<sup>th</sup> July, 2023, and at the same time, serve a copy thereof on the other party;
4. Both Counsels file any **List of Documents** and **Bundle of Documents** with the Tribunal by on or before 3:00 p.m. on Monday, 31<sup>st</sup> July, 2023, and at the same time, serve a copy thereof on the other party;
5. Both Counsels file any **Brief/Skeleton Arguments** with the Tribunal by on or before 3:00 p.m. on Tuesday, 8<sup>th</sup> August, 2023, and at the same time, serve a copy thereof on the other party; and

6. The Tribunal serve a new **Form J** (Notice of Hearing) on both Counsels.

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

**DATED: This 18<sup>th</sup> day of May, A.D., 2023.**



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

