

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)

TYEOSHA M^cKENZIE

APPLICANT

versus

**HENRY GLINTON,
Trading as BONANZA BAR & GRILL**

FIRST RESPONDENT

and

**TORY GLINTON,
Trading as BONANZA BAR & GRILL**

SECOND RESPONDENT

ORDER ON DIRECTIONS

APPEARANCES

For the Applicant

Pro se
Freeport, Grand Bahama
The Bahamas

For the Respondents

Ernie Wallace, Esquire
Wallace Law Chambers
Freeport, Grand Bahama
The Bahamas

WHEREAS:

- 1) On the 25th September, 2020, **Tyeosha McKenzie** ("the Applicant") filed a **Report of a Trade Dispute** against **Bonanza Bar & Grill** ("the Respondent") at The Department of Labour in Grand Bahama, The Bahamas, which stated that the issues relevant to the dispute were *Severance pay, Back pay, Redundancy payment, National Insurance not paid up to date and Unemployment benefits;*
- 2) By a **Certificate of Referral** dated the 23rd May, 2023 (received on the 8th September, 2023), the Honourable Minister of Labour & Immigration referred the said trade dispute to the Industrial Tribunal, Northern Region, ("the Tribunal");
- 3) The Tribunal conducted a **Case Management hearing** in this matter on Monday, 30th October, 2023, and made an **Order On Directions;**
- 4) **Both parties** waived the 14 days' notice of the hearing for trial and the matter was adjourned for trial at 10:00 a.m. on Wednesday, 1st November, 2023;
- 5) On the trial date, the **Respondent's Counsel** advised that the Respondent is an unincorporated business owned by *Tory Ginton* and not *Henry Ginton;*
- 6) Pursuant to **Section 59(1)(b)(ii)** of **The Industrial Relations Act** and **Rule 16(1)** and **(2)** of **The Rules**, the **Tribunal**, of its own motion, and with no objections by the parties:-
 - joined **Henry Ginton, Trading as Bonanza Bar & Grill** as the First Respondent in the proceedings ;
 - joined **Tory Ginton, Trading as Bonanza Bar & Grill** as the Second Respondent in the proceedings;
 - dismissed **Bonanza Bar & Grill** from the proceedings;
 - directed that the Tribunal serve a **Form J** (Notice of Hearing) for trial and this **Order On Directions** on the First Respondent; and
 - directed that the Tribunal serve a copy of the Applicant's **Form A** (Originating Application) together with a **Form C** (Notice of Originating Application), **Form D** (Notice of Appearance), **Form E** (Defence), **Form J** (Notice of Hearing) for trial and this **Order On Directions** on the Second Respondent;
- 7) The **Tribunal** directed that the Respondent's Counsel provide the Tribunal with an e-mail address for the Second Respondent in order to effect service on him;
- 8) The **Respondent's Counsel** undertook to ask the Second Respondent if he can accept service of the aforesaid documents on his behalf;

9) The Applicant advised that her claim for *Back pay* represents unpaid Minimum wages (assessed at \$ 7,630.00 by the Tribunal); and

10) The Tribunal advised the parties that:-

- it has no jurisdiction to hear and determine the Applicant's claim for *Unemployment benefits*, which are payable by The National Insurance Board and not an employer;
- following the reasoning of The Bahamas Court of Appeal in **Island Construction Company Ltd. v. The Industrial Tribunal, The Attorney General of The Commonwealth of The Bahamas & The Commonwealth Wholesale Retail & Allied Workers**, Union, No. 29/2003, the Tribunal has no jurisdiction to hear and determine the Applicant's claim for *National Insurance not paid up to date*, which is a Criminal offence under **The National Insurance Act**, Cap. 350; and
- they should consider the *dicta* in the Tribunal Decision of **Marilyn Reckley et al. v. Sapodilly's Restaurant**, BIT/NR/001, 002 & 003/2008, and settle the Applicant's claim for *Redundancy pay* (which the Tribunal assessed at \$ 2,696.40);

IT IS HEREBY ORDERED that:-

1. The Tribunal serve a **Form J** (Notice of Hearing) for trial and this **Order On Directions** on the First Respondent's Counsel;
2. The Tribunal serve on the Second Respondent:-
 - a copy of the Applicant's **Form A** (Originating Application);
 - a **Form C** (Notice of Originating Application);
 - a **Form D** (Notice of Appearance);
 - a **Form E** (Defence);
 - a **Form J** (Notice of Hearing) for trial; and
 - this **Order On Directions**;
3. The Respondent's Counsel provide the Tribunal with an e-mail address for the Second Respondent **or** proof, in writing, that the Second Respondent agreed that he can accept service of the aforesaid documents on his behalf;
4. The witnesses give *viva voce* testimony, as the Applicant is a lay person;

5. In lieu of the parties filing a List of Documents and Bundle of Documents, they produce at trial, the original (if available) and 3 copies of all documents upon which they will be relying; and
6. This matter be adjourned for trial at 10:00 a.m. on Thursday, 18th January, 2024.

DATED: This 1st day of November, A.D., 2023.

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