

INDUSTRIAL TRIBUNAL

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

Before

His Honour, R. Dawson Malone Vice President (Acting)

(Sitting Alone)

VINESHA SMITH

Applicant

AND

NASSAU GLASS

Respondent

ORDER

Directions for Trial

APPEARANCES

For the Applicant

Mr. Hilbert Collie
Hilbert Collie & Associates

For the Respondent

Ms. Camille Cleare
Harry B. Sands Lobosky & Co

WHEREAS:

1. By Order made on 19 March, 2023 today's hearing was for the purpose of determining if there was need for viva voce evidence in this matter (in light of the apparent non-dispute as to facts) and for further directions for trial;
2. Pursuant to the said Order, the Parties filed an agreed Statement of Facts and Issues (SFI) as well as the requisite contract of employment, time cards, and pay slips in relation to the Applicant's employment with the Respondent;
3. On review of the agreed SFI there was no particulars of the week(s) when the alleged overtime was worked and the hours worked on said week(s);
4. The Parties duly advised that they could update (or amend) the SFI and file the same by 28 March, 2024;
5. The Applicant also lodged submissions for trial (seemingly on the basis of the said Order albeit submissions were not previously ordered) without providing the authorities referenced;
6. The Tribunal drew to the attention of the Parties two judgments which the Tribunal wished to be considered in the submissions namely: *Ferguson and another v Lignum Vitae Cay Ltd* [2012] 2 BHS J No. 112 and *Ferguson v Lorco Investments Holding Limited* [2008] 6 BHS J No. 2;
7. The Applicant thereafter advised that there was a further judgment of the Court of Appeal which his client intends to rely upon;
8. Pursuant to Rule 15 (1) of the Industrial Relations (Tribunal Procedure) Rules 2010 and section 57 of the Industrial Relations Act, and with the agreement of the Parties, the Industrial Tribunal shall conduct the trial having regard to the legal submissions based on the agreed SFI (to be filed in accordance with this Order);

IT IS HEREBY ORDERED THAT:

- a. by 2 April, 2024 the Parties shall file an updated (or amended) agreed Statement of Facts and Issues which includes an update at paragraph 11 to include particulars as to the week(s) which the overtime is alleged to have been worked and the hours worked on said week(s);
- b. by 9 April, 2024 the Applicant shall file supplemental submissions which should include (i) authorities (not previously laid over), (ii) any additional authorities, as well as, (iii) address the judgments referred to the Parties by the Tribunal and, (iv) the set out the relief/quantified remedy that the Applicant wishes the Tribunal to order;
- c. by 16 April, 2024 the Respondent shall file its submissions in response to the Applicant's submissions and include in said submissions (i) its views on the cases provided by the Tribunal, and (ii) indicate its position on what relief/quantified remedy the Applicant should be entitled to if it be determined that the Applicant is entitled to payment for the overtime claimed;
- d. the Trial for the hearing of oral submissions based on the agreed SFI and submissions shall take place on 22 April, 2024 at 2:30 p.m.; and
- e. in the meantime the Parties are encouraged to engage in good faith settlement negotiations pursuant to section 60 of the Industrial Relations Act.

AND THIS IS THE ORDER OF THIS TRIBUNAL

Dated this 27 day of March, 2024

R. Dawson Malone
Vice President (Acting)
Industrial Tribunal